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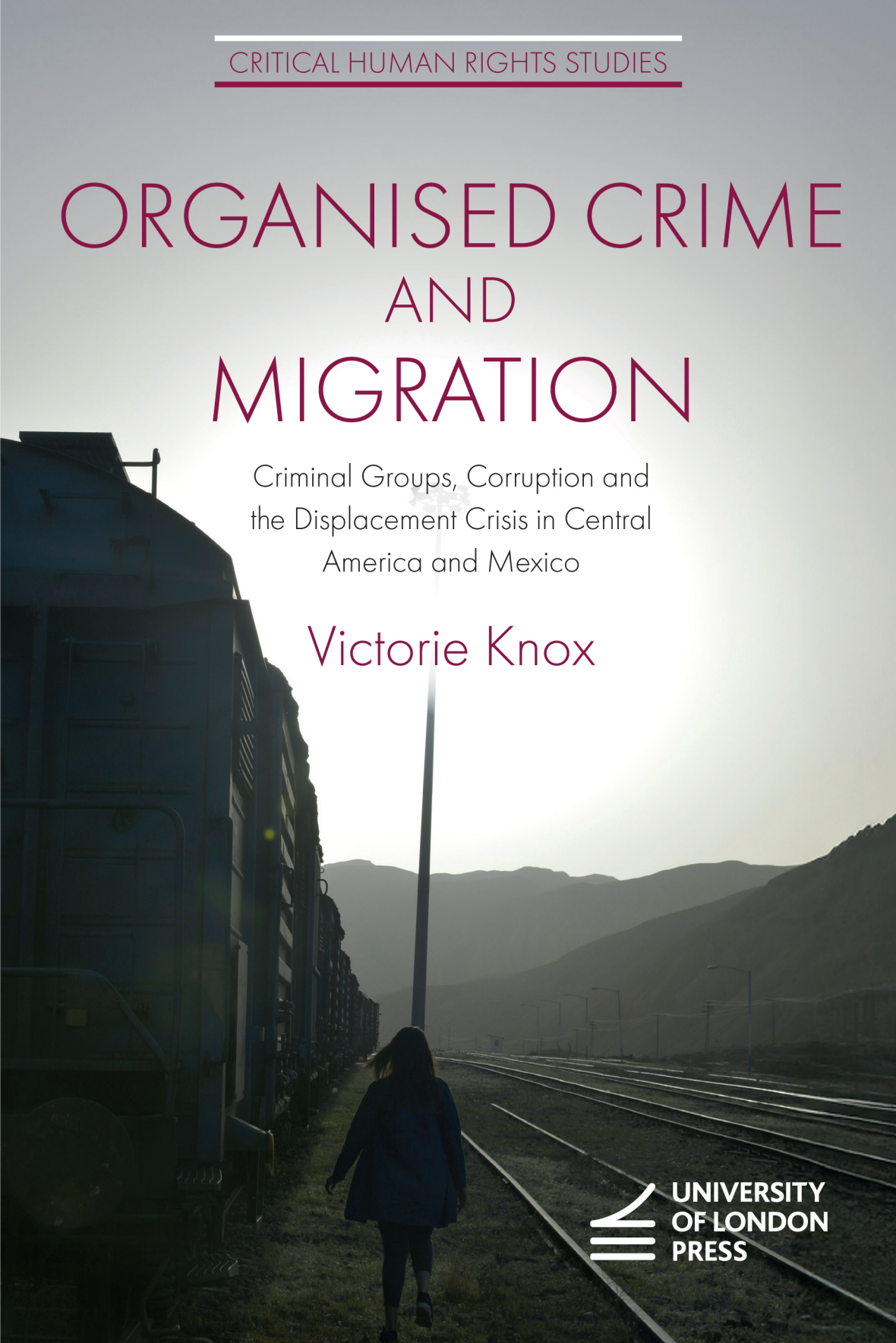
ORGANISED CRIME AND MIGRATION

Criminal Groups, Corruption and the Displacement Crisis in Central America and Mexico

Victorie Knox



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Organised Crime and Migration

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Introduction

Organised criminal groups in Mexico have been involved in people-smuggling and in the abuse of migrants for many years. Alongside this, a displacement crisis has emerged as people with different potential protection needs flee a complex mix of factors in Northern Central America (comprising El Salvador, Guatemala and Honduras). These include violence and threats from criminal gangs, persecution by state actors, gender violence and hate crime, the impact of climate change and natural disasters, and entrenched inequality and poverty. Further, vast numbers of extracontinental migrants and refugees are transiting Mexico en route to the USA. Systematic abuse of and extreme violence against transit migrants – particularly Central Americans – in Mexico have been well documented by organisations and academics over the past two decades, and migrants have become a significant source of income for some criminal organisations.

This book brings together three aspects of organised crime in relation to migration – its role in provoking displacement, the abuse of migrants in transit, and people-smuggling – reflecting on the facilitating power of corruption and impunity. These three links between organised crime and migration have typically been approached as disaggregated phenomena. However, they are deeply interrelated, so a more integrated perspective on these is needed. This is the first study to present detailed analysis of these three phenomena alongside each other, and to link each of these to corruption and impunity, analysing the role and responsibility of the Mexican state in all this.

The study engages a critical realist analytic framework – the morphogenetic approach – to examine how agency and structure interact and transform one another over time and to determine the impact of time-specific events and contextual factors, analysing the process of change to understand direct and indirect causal mechanisms. This framework is employed to analyse how criminal violence in Northern Central America

causes internal displacement and forced migration and the mobility dynamics that result, presenting this alongside the involvement of criminal groups during the transit portion of migration. The framework is then used to analyse how the abuse of migrants became a criminal industry in Mexico and to demonstrate how people-smuggling has become an organised crime enterprise that compromises state integrity and further entrenches corruption.

The study provides detailed analysis of the role of states in all this. It demonstrates how an environment of endemic corruption and impunity enables organised crime's involvement in migration through Mexico and how the implementation of externalised migration policy in this context can have adverse consequences that, rather than being framed as 'unintended consequences', should be considered foreseeable. It reflects on state responsibility in the context of such externalised controls, examining how the externalisation of US migration controls to Mexico under *Plan Frontera Sur* (also known as *Programa Frontera Sur*) – the Southern Border Plan – conflicted with Mexico's international obligations towards those with potential international protection needs, increased risk and harm to migrants who became 'collateral damage' of this policy, and catalysed the deeper involvement of organised criminal groups in the exploitation of migrants, thus aggravating corruption related to people-smuggling. As a result, this study provides new understanding about the likely foreseeable adverse consequences of implementing policy in areas affected by endemic criminal violence, impunity and corruption, and about the implications for state accountability if states are cognisant of these and develop and implement such policy nonetheless.

This analysis continues to be relevant to the migration dynamics in Mexico and Central America, as well as to those in other jurisdictions where there are mixed migration flows and people-smuggling, or where violent non-state actors contribute to displacement or target displaced people. As such, its conclusions are highly relevant to academics, practitioners and policymakers concerned with such issues, both in the region and globally, and for understanding the potential implications of delivering or externalising policy in other countries affected by corruption or organised crime.

This introductory chapter sets out the context in which this study is located. It first gives an overview of organised crime and human mobility in the region, describing the characteristics and modus operandi of prominent organised criminal groups in Mexico and Northern Central America, and some of the dynamics between them and the state. It then explains this study's methodology and the employment of the morphogenetic approach to analyse each of the three links between organised crime and migration and bring them together. It sets out the book's central arguments, its contribution to knowledge of interest to academics

and policymakers, and its engagement with relevant academic debates. The chapter ends with an outline of the structure of the book.

Organised crime and human mobility in the region

For many years, Mexico has experienced one of the largest flows of transit migrants in the world, and these migrants experience systematic human rights abuse and violence during their journey. Criminal groups are responsible for endemic criminal violence and persecution that force people to resort to internal displacement or external migration in both Mexico and Northern Central America. Tens of thousands of people flee criminal violence in the region each year. Organised criminal groups in Mexico are involved both in the abuse of transit migrants and in the control of people-smuggling that facilitates migration journeys. The situation is dynamic and evolving, with new activities and state and non-state actors – and state responses to these – constantly emerging.

Thousands of migrants in transit are affected by the violence perpetrated by organised criminal groups every year, yet the Mexican state has failed to deliver any effective response. Large Mexican organised criminal groups also control people-smuggling in the region, either through the collection of dues known as *piso* or *derecho de piso* to pass within their territory or through more direct operational involvement. However, the increasing control of territory by organised crime groups has meant that people-smuggling, as well as facilitating unauthorised entry, has become a protection racket in many respects, with people compelled to use such services to protect both against violent criminal actors and from apprehension by state actors.

Tens of thousands of people fled their homes in Northern Central America during the early 2010s when the security situation deteriorated significantly. Without either effective state protection or viable options for internal flight, people resorted to fleeing across international borders. This led to unprecedented increases in associated asylum claims in Mexico and in the number of families and unaccompanied minors from Northern Central America presenting themselves at the US border in 2013 and 2014. In response to this situation – described by President Obama as an "urgent humanitarian situation" (The White House 2014) – Mexico implemented new in-country migration controls in the south of the country under *Plan Frontera Sur*, effectively externalising US migration controls in order to curb arrivals at the Mexico–US border.

Following the implementation of these controls, people who had fled their country were obliged to move in an increasingly marginalised

manner, making them more vulnerable to exploitation and abuse by the organised criminal groups that control the route north. Those with access to financial resources could use regular means of transport or people-smugglers to facilitate their journey, avoid migration controls and access transport, but those with fewer resources were exposed to risks during transit. Regardless of the controls and the risks in transit, the exodus from Northern Central America continued after the implementation of *Plan Frontera Sur* and, by April 2016, the number of people fleeing criminal violence had reached levels not seen since the region was affected by civil wars, and pervasive violence and persecution by criminal actors had become a principal cause of out-migration.

The nature of organised criminal groups

Criminal organisations of different sizes and natures share some common features and modes of control. Such groups must be understood to have moved beyond just the provision of illicit goods and services to become organisations that seek exclusive control over territory, deal primarily in private protection and operate as non-state, quasi-political authorities (Schelling 1971, Gambetta 1988, 1996, Paoli 2002, 2014). Regardless of size, they establish and maintain their authority due to key features – a strong collective identity coupled with an "extraordinary capability to adapt to changing social and economic conditions" (Paoli 2002: 64) – and operate by usurping critical activities over which the state usually has a monopoly: notably, the use of force and taxation (Paoli 2002, Kleemans 2014). Criminal groups take advantage of state weaknesses to seize territorial control, to co-opt or corrupt state actors and entities to enable their continued operations with impunity, to diversify their portfolios by leveraging emerging criminal markets and to resort to violence to meet their ends, be they criminal or political (Dudley 2016a). Their political aims are generally linked to control rather than ideology. In order to reinforce their control, unhindered operation and criminal governance, they buy or force allegiance from political and state actors.

Violence is endemic within criminal organisations that vie for exclusivity over markets and territories – to punish, to exert power, to reinforce the need for protection and to demonstrate superiority over rival organisations. With no recourse to formal institutions to enforce economic agreements and to remedy violations, violence – or the threat thereof – must be employed instead. While the threat and use of violence may be linked to transactional activity, it is often employed for "contingent reasons" such as unstable and fragmented relationships between different criminal groups, demonstrations of power and authority, or to send

messages to rivals (Gambetta 1996, Paoli 2002). Nonetheless, the 'private enforcement' activities of criminal organisations do not always run contrarily to the interests of the state, and there is often cooperation – or, at a minimum, coexistence – from state officials, and an acceptance of the activities and roles of these organisations (Gambetta 1996). Indeed, the state is far from a benign actor in this.

There is generally an absence of effective state action against organised crime throughout Latin America, although this is deeply linked to entrenched corruption and impunity. This contrasts with what we would normally expect to see: the state asserting its authority and its monopoly on the use of force (Osorio 2011). In the absence of appropriate and effective state response, organised criminal groups are able to assert authority, establish strong roots and embed themselves as powerful non-state actors (Schelling 1971, Gambetta 1988, 1996, Manwaring 2007, Karstedt 2014). This, in turn, weakens state control, resulting in power vacuums that are then usurped by organised crime entities. This results in pockets of failed state where criminal organisations become stronger as corrupt state agents become involved in criminal activities: "The State is rather an actor in organised crime than its victim" (Karstedt 2014: 317). This situation is particularly acute in Mexico, because corruption and patronage have been integral to politics for several decades, with strong links and cooperation between the government and organised crime in what has been described as a *pax narcotica* or *pax mafiosa* (Buscaglia 2015, 2016).

While criminal groups are important social actors in the region, in some parts of Mexico they have become de facto governments or quasi-political authorities that use certain tactics (force, corruption and intervention in political processes) to steer authorities away from policies that are misaligned with their objectives. Sullivan (2012) calls this usurping of state control "criminal insurgency" and describes how some groups promote themselves as "social bandits", highlighting that their increasingly transnational nature takes them not only beyond law-enforcement issues, but also beyond issues of national security. Manwaring (2007) describes the increasing similarities between the region's criminal groups and insurgency movements in terms of political motives and political control; control that is gained not by a *coup d'état*, but by gradual and meticulously planned smaller incursions into territories and institutions. Further to this, "the persuasive and intimidating actions of the gang phenomenon in the electoral processes have pernicious effects on democracy and tend to erode the will and ability of the State to carry out its legitimising functions" (Manwaring 2007: 29).

In Mexico and Central America, the corruption of state authorities goes beyond impunity for criminal actions, to the collaboration of officials, the

collusion of security forces and the co-opting of state employees. This is best understood within the conceptualisation of criminal governance (see, for instance, Lessing 2015, 2017, Moncada 2016, 2021, Barnes 2017, Arias 2017, Durán-Martínez 2018, Magaloni et al. 2020, Trejo and Ley 2020, Feldmann and Luna 2022, Uribe et al. 2025), which explains how criminal groups enforce control, particularly in the context of Latin America. This can explain the social and economic power of criminal groups in regions they control and the complex relationships between the state and criminal groups that extend far beyond the dichotomous distinctions normally understood to be between state and criminal actors.

All organised criminal groups "implement at least a very basic system of governance after consolidating territorial control" (Barnes 2017: 973), which comprises territorial control, social control and collaborative relations with state actors. The form of local authority that different types of criminal groups establish varies according to the three variables of "degree of territorial control; relationship with the state; and relationship with the community", with five key regime typologies (defined as Insurgent, Bandit, Symbiotic, Predatory and Split) that vary most distinctly in their relationship with the state and the extent to which this is marked by confrontations or alliances (Magaloni et al. 2020: 555).

Within territorial control, criminal groups monopolise economic activities and the use of violence, defending their territory from rival groups and against enforcement by state actors (Barnes 2017). Social control is employed to ensure compliance from residents as well as economic benefits from them (for example as dues or extortion) and to support the avoidance of enforcement and defence of territory against rivals (for example, by maintaining rules of silence and loyalty) (Magaloni et al. 2020). Relations with the state must be managed to avoid enforcement and confrontations – that is, managing state actors and keeping the police away to protect criminal activity and income and maintain the criminal group's authority and territory – and to facilitate certain activities or ensure impunity through alliances with varied levels of cooperation (Magaloni et al. 2020).

The concept of criminal governance does not imply the parallel existence of criminal groups and the state, but rather acknowledges various levels of interaction between them. These can vary between confrontations and alliances, with a continuum between these or a combination of interactions (Magaloni et al. 2020). The complex and varied interactions between criminal and state entities are neither consistent in their manifestation nor diametrically opposed (Arias 2017, Lessing 2020). These may instead operate in parallel or co-existence that can be described as "instances of divided sovereignty or duopolies of violence" (Feldmann and Luna 2022), where there are symbiotic interactions, collaborations

and arrangements between them (Moncada 2016, Durán-Martínez 2018, Lessing 2020, Magaloni et al. 2020). Nor are they static, rather "crime–state relations are often fluid, shifting back and forth between these various arrangements over time" (Barnes 2017: 973). Shifts in these patterns – towards confrontation rather than alliances, and vice versa – can provoke or reduce levels of violence (Magaloni et al. 2020).

Rather than providing an effective intervention, state security responses or confrontations can instead generate or aggravate violence, provoke inter-group hostility or battles, and push criminal presence or activity into previously unaffected areas (Calderón et al. 2015, Lessing 2015, 2017, Magaloni et al. 2017, 2020, Durán-Martínez 2015, Trejo and Ley 2020). The outcome will differ depending on the nature of the group and its criminal governance which "vary according to whether criminal groups confront or collude with state actors; abuse or cooperate with the community; and hold a monopoly or contest territory with rival OCGs" (Magaloni et al. 2020: 555).

Organised criminal groups in Mexico

Large, family-based organised crime groups have been active in Mexico for several decades, and their operations have been supported by endemic corruption, with Mexico's government and elites cooperating with and benefiting from organised crime. (For detailed analysis of the post-2000 development of and distinction between groups, see, for instance, Medel and Thoumi 2014, Calderón et al. 2015, Trejo and Ley 2020, Magaloni et al. 2017.) Since the 1990s, the form, nature and business models of criminal organisations in Mexico have evolved and reshaped, and their activities and income sources have diversified. Significant changes followed the end of authoritarian rule and the defeat of the PRI (*Partido Revolucionario Institucional*) in the 2000 presidential elections, with the associated loss of patronage protection from the state and security forces, and then after the 2006 crackdown on organised crime and its strategy to remove the heads of large criminal groups (Dudley 2012, 2016a, Calderón et al. 2015, Medel and Thoumi 2014, Trejo and Ley 2020).

The key transformations that emerged after the changes in 2000 and 2006 were: the fragmentation of existing groups into smaller groups who then formed allegiances or battled over territorial and trade controls; the recruitment of militias with military experience; and a substantial increase in violence, fuelled in part by a flood of heavy weaponry from the USA following the 2004 expiration of a ban on assault weapons. As these new groups emerged and the strategy of territorial control hardened, the groups diversified into other activities, including, ultimately, the kidnap and extortion

of transit migrants. The conceptualisation of criminal governance provides framing to enable us to understand the territorial control model, the shift in operations and the ongoing, shifting and complex connections with state actors. It thus explains how groups hardened territorial control in the post-authoritarian context, the rise of private militia to enforce control, protect from confrontations with the state or battle rival groups, and the ongoing territorial control and operationality of groups in the country and beyond (Trejo and Ley 2020).

The US-backed Mexican government crackdown on organised crime from 2006 (commonly referred to as the 'War on Drugs' or the 'Kingpin Strategy') focused on the 'decapitation' of cartels through the capture or killing of their leaders. However, this approach appears to have had a 'hydra' effect, with battles for leadership causing division and two or more heads growing in the place of the one that had been removed. Groups fragmented to form new groups, strengthened their paramilitary wings and battled over territory, financial activities and smuggling routes, causing significant increases in violence and homicides. This led to incursions into new criminal markets to increase incomes with the "paradoxical result that the strongest cartels [. . .] consolidated their power" (Stillman 2015). During this time, and as a result of both internal developments and fragmentation within large criminal groups (such as the Gulf Cartel, Sinaloa Cartel and *La Familia Michoacana*) and the attempts to break them up, smaller groups (such as the Zetas, Knights Templar and *Cártel Jalisco Nueva Generación*) emerged that were focused on controlling territory. These groups were much more involved in extreme violence, extortion and charging *piso*.[1] These major criminal groups – often referred to as cartels – now had extraordinary firepower and sphere of influence and could perhaps best be described as "paramilitary organised crime networks" that operate in parallel to the state (Grillo 2023). Within some parts of Mexico, these groups cause a significant amount of internal displacement and external flight.

This period correlates with the involvement of criminal groups in the systematic abuse of transit migrants in Mexico (Dudley 2012, 2016a, Dudley and Rios 2013, Guerrero 2011, Rodríguez 2014). This happened in the context of post-2001 migration policy and the militarisation of the US–Mexico border, intensified in the post-2006 context, and further hardened following the implementation of in-country migration control in 2014 under *Plan Frontera Sur* (Hiemstra 2019, Basok et al. 2015). Most recently, large organised groups – notably the Sinaloa Cartel and the now large and powerful *Cártel Jalisco Nueva Generación* – became directly involved in people-smuggling operations, battling each other for control of areas near Mexico's southern border with Guatemala or exerting their

dominance at the US–Mexico border. Below this top level of large criminal groups, there are three discrete operating models – as described by experts in my fieldwork – by which smaller groups engage in criminal activity (including the abuse of migrants) within their territory, and these are intrinsically connected to the new model of territorial control. Firstly, there are franchise models consisting of smaller local groups operating independently but using organised crime 'brand names'. Secondly, organised crime groups grant concessions to local criminal groups, permitting them to undertake specific activities within their territorial control, such as assaults and kidnappings of migrants. Thirdly, some groups are subcontracted to carry out certain tasks on behalf of organised crime, such as collecting *piso* on the trains. These different operating models indicate varying levels of involvement in the abuse of migrants by large criminal groups, but they all serve as revenue streams to organised crime.

Organised criminal groups in Northern Central America

The criminal landscape in Northern Central America is markedly different from that in Mexico. These countries have suffered from endemic violence and citizen insecurity, the highest murder rates in the world and, by the early 2010s, were acknowledged as the deadliest countries outside of declared war zones (Cantor 2016).[2] Dudley (2011) describes three key types of organised crime groups that were operating in the region: street gangs, *transportistas* (local drug-trafficking groups) and Mexican cartels. This differentiation is critical to understanding each group's activities and use of violence and the ensuing impact this has on displacement (Cantor 2014), with most appearing to be provoked by violence perpetrated at local level by street gangs that is directly linked to their criminal governance.

There were two extremely powerful and significant street gangs, or *maras*, in Northern Central America (*Mara Salvatrucha* or MS-13 and *Barrio*-18 or B-18 – although these have each split into two other main entities in both El Salvador and Honduras) that originated in exile in California during the region's civil wars. There are also many smaller street gangs, especially in Honduras. These *maras* were able to develop because of specific social conditions in these countries – including a weak rule of law, economic inequality and social marginalisation – although their more recent strengthening and increased violence is linked both to these ongoing conditions and to their involvement in international drug trafficking (Dudley 2011, Pérez 2013, International Crisis Group 2016).

Maras are social and criminal organisations that have dominated hundreds of neighbourhoods and towns in the region, with de facto control of some parts of the country – especially marginalised urban areas – where

they have become more powerful than the state. They exert societal power in their territory and have spheres of influence throughout the country, as a result of entrenched corruption and their surveillance and communication networks. Within gang-controlled areas, *maras* effectively govern as "a shadow government, implementing its own laws, rules and taxes" (Martínez d'Aubuisson 2022). As such, the concept of criminal governance explains their establishment of territorial control and imposition of social control in marginalised areas with weak state presence, and the associated violence that derives from this. Such violence is employed to defend territory from other criminal actors and state forces and to maintain territorial control.

Violence and the implicit and explicit threat of this is employed to maintain social control over the population of the territory. A *mara* views itself "not as just controlling the territory, but also as controlling the people who live there, subjecting the inhabitants to its rules and control" (Weir 2022), using violence and threats to enforce these. This social control imposes requirements for loyalty, obedience and respect for their local authority. Loyalty is demanded to protect from enforcement, with codes of silence (*ver, oír y caller* or 'see, hear and be silent') that punish acts such as making a police report or collaborating with the authorities. Obedience is demanded to maintain the integrity of the territory as well as to meet the gangs' economic and other wants and needs. People are obliged to comply with all gang demands (whether for extortion payments or 'tax', collaboration in criminal activities or to leave the area), and refusal to do so is considered an affront to gang authority that is punishable with extreme violence.

Corruption and impunity are key to the existence, operations and criminal activity of all groups, from *maras* to *transportistas*, and the region is marked by entrenched corruption at all levels of governance and authority. Organised criminal groups pursue corruption as a core part of their strategy to manage state relations and ensure their survival and, as a result, have infiltrated state security institutions – police, military and judicial systems – throughout the region. Some members of the security forces and political actors engage in criminal activity or collaborate with organised crime. This situation is fluid rather than constant, however, and the state–gang relationship can change from alliances to confrontations that provoke violent responses from gangs. Security forces' raids or confrontations in gang territory and the breaking of state–gang truces result in violence (Magaloni et al. 2020) that provokes displacement as residents flee rising levels of violence or the risk of being targeted by state forces. Various repressive crackdowns against *maras* (known as *mano dura* or 'hard fist' approaches) have been employed, although these tended to result in increased violence (for example, in El Salvador in the

mid-2000s) and failed to address the root causes of the violence and criminal gangs' control.

Maras gained increasing political influence, particularly in El Salvador and Honduras. They have connections with the country's political and economic elite and have gained influence over some authorities, through infiltration and corruption. They may influence political outcomes, and MS-13 in particular has now moved beyond selling votes and controlling access for political campaigns to direct political action and "involvement in partisan party politics" (Farah and Babineau 2018: 12). While the political influence of the *maras* was strong in both countries, this trend became "most visible in Honduras, where it is combined with a much more coherent, identifiable political ideology and messaging" (Farah and Babineau 2018: 12). Drug-trafficking groups also have political interests and can purportedly influence subnational decisions. This reached new levels in Honduras through the 2010s, culminating in the former president Juan Orlando Hernández being extradited to the USA and convicted for drug trafficking and collusion with organised crime. An attorney general, security ministers, senior police and close relatives of previous presidents have also previously been convicted of drug trafficking and money laundering.

Methodology and approach

The book examines changes that relate to the implementation of *Plan Frontera Sur* between 2014 and the end of 2016. These are located within the context of changes in Mexico that transformed the presence, nature and activities of large organised crime groups: political changes around the end of single-party rule in 2000 and the end of extant patronage between the state and organised crime groups; the hardening of US migration controls and militarisation of the US–Mexico border from 2001; and Mexico's security policy and attempted crackdown on organised crime from 2006 that led to the evolution of organised crime and its modus operandi. This all plays out in the context of a deepening displacement crisis in the region from 2013, as tens of thousands of people fled gang violence in Northern Central America. The analysis of contemporaneous events and statistics continues until the end of 2016, when a new US administration (the first Trump administration) came to power and immediately launched new policies in addition to ongoing activities under *Plan Frontera Sur*, significantly changing the context. My rationale in doing this was to enable an unobstructed analysis of the impact of this specific policy, without the impact of other policies confusing this. Subsequent policies have had similar impacts on the empirical situation

of migration in Mexico and the involvement of organised crime groups in the exploitation of migrants (see Dudley et al. 2023), and these are reflected on in the final chapter of this book.

I took a primarily qualitative approach to my research to generate new data about this emerging situation. I undertook fieldwork in Mexico and El Salvador between September and November 2015, where I conducted interviews with experts, migrants and asylum-seekers. The data gathered in this fieldwork was triangulated with contemporaneous reports and supplemented with analysis of legal frameworks and official data. Analysis of data was done using the morphogenetic approach. This is the first use of this approach in such a study and was therefore experimental at the outset. To deepen understanding about internal displacement, Chapter 1 additionally relies on broad findings from further research and five more fieldwork trips to the region that I conducted between 2018 and 2023, and includes analysis from the perspective of criminal governance, a theory that developed over this time. My research included semi-structured interviews with almost 200 experts (government officials, heads of international organisations, community leaders and representatives of international and local non-governmental organisations (NGOs)) in Mexico, Honduras and El Salvador, as well as formal and informal individual interviews and focus groups with people and communities affected by displacement in Honduras and at refugee camps in Mexico.

Fieldwork in Mexico and El Salvador, 2015

In late 2015, I conducted structured and semi-structured interviews with fifty-eight migrants and thirty-four experts on migration and organised crime in the region, including academics, government officials and representatives of international agencies in Mexico City, Tapachula and Ixtepec in Mexico and in San Salvador and Santa Tecla in El Salvador. I spent three weeks at the *Albergue 'Hermanos en el Camino'* migrant shelter in Ixtepec, southern Mexico (the *Albergue*) and two days at the reception centre for Salvadorans deported overland from Mexico in Santa Tecla, El Salvador (*Centro de Atención a Repatriados*, the Returns Centre), where I conducted interviews with staff and migrants.[3]

I lived at the *Albergue* during my research there, enabling me to make further ethnographic observations about dynamics and incidents. I conducted fifty formal interviews with migrants during my stay, which amounted to a quarter of the people staying there, using stratified sampling to reflect the demographic composition of the full population. Of the sample I interviewed, there were forty-two men, five women, one trans woman, one accompanied minor and one unaccompanied minor. These

included the heads of five family groups, three of which were mothers with young children under the age of five and two were the fathers of teenage boys. The majority of the people I interviewed came from Honduras (twenty-one), El Salvador (seventeen) and Guatemala (eight). Of the remaining people, two came from Nicaragua, one from Cuba and one from Mexico. I also conducted eight interviews with Salvadorans who had been deported from Mexico at the Returns Centre in Santa Tecla, employing convenience sampling due to time constraints.

The people I interviewed had not used the services of people-smugglers to travel and, in general, had little experience of such services due to financial constraints. The majority of them had walked the whole of or a large part of the route, often following the train tracks and making diversions to avoid migration checkpoints within Mexico. Many of them had also used *combis* (microbuses) within Mexico, some had used public buses and taxis, while a few had ridden on top of trains. Of my sample at the *Albergue*, twenty-seven people gave reasons for leaving their country that could indicate potential international protection needs under the regional definition provided for in Mexican law. Eight of these were claiming or intended to claim asylum in Mexico.[4]

These research sites presented me with systematic biases in my research sample, because I was not able to access people who were using the services of people-smugglers or those who were able to travel in an authorised or regular manner. The people I interviewed at the *Albergue* were some of the most marginalised people travelling overland through Mexico – those who did not have the resources to use people-smugglers to facilitate their journey or to access authorised travel and regular entry options. Just two interviewees (one at the *Albergue* and one at the Returns Centre) told me that they had engaged such services for all or part of their journey, although there were other people arriving at the Returns Centre who appeared to have used people-smugglers (they were well dressed with suitcases). As a result, my analysis of people's decision-making excludes those who were able to leave in a more planned manner, after considering all their options and arranging travel in advance (either using authorised travel options or people-smuggling services), perhaps when at a lower level of risk.[5]

Ethical considerations

My field research presented methodological challenges and significant ethical concerns, which were fully evaluated, and my strategy to mitigate risk was approved by the University of London Research Ethics Committee. My primary ethical responsibility was to respect the safety,

wellbeing and confidentiality of all research participants. Considerations about vulnerability, marginalisation and privacy informed all stages of my preparation, including research design, selection of research locations and the planning and implementation of my fieldwork trip. Additionally, the vulnerability of displaced people and the compromised security situation posed by insecurity and organised crime raised some points of concern, namely: the general presence of organised crime and poor security in the region, high levels of corruption and infiltration of state institutions by organised crime actors, and the potential infiltration of migrant shelters by members of criminal groups.

Firstly, my interview design and technique were informed by practical concerns, such as ensuring the physical and psychosocial wellbeing of research participants who may be tired, hungry or mentally distressed, in particular when relating traumatic stories. I took particular care to be sensitive to participants' emotional wellbeing and not to elicit information that could identify the participant or their family members or that could compromise their anonymity. Secondly, I was conscious of the risk of exposing participants to members of criminal organisations possibly operating in the vicinity of research sites, or who might have infiltrated the migrant shelter, and of the possibility of inadvertently interviewing either criminals posing as migrants or migrants recruited by gangs during transit. I took steps to mitigate this, to act with caution in regard to the nature of all discussions and, above all, to maintain the confidentiality of other research participants. I carefully designed my interview questionnaire to be as neutral as possible, so that any potential exposure would not jeopardise participants, investigators or the research project itself. Furthermore, I did not discuss with anyone who was not a trusted contact the focus of my work on organised crime or enter into conversations that could expose either me or my research participants to security risks.

Data analysis

Analysis of my data was an inductive process, allowing me to explore the sources in an unbiased manner and in increasingly granular detail, extracting narrative elements to give nuance and insight to the patterns I observed. Legal frameworks and publicly available quantitative data on apprehensions and deportations from US and Mexican government agencies were also analysed and interpreted within the context of narrative accounts from experts' interviews. For my examination of past events, I applied new analysis to previously published work and narrative accounts from my interviews, in order to enhance understanding about the processes of change over time and the causal mechanisms involved.

The morphogenetic approach: a critical realist analytic framework

To look at the evolving situation from the perspectives of both structure and agency, examine how agency and structure interact, reshape and transform one another over time, and analyse the process of change to reveal the causal mechanisms of change, I used the morphogenetic approach (Archer 1982, 1995, 1996, 2011, 2013, 2020, 2024, Archer et al. 1998) – a critical realist analytic framework. This responds to Bakewell's (2010) call for a critical realist approach to migration studies to help resolve the structure–agency impasse, such as Archer's (1982, 1995, 1996) morphogenetic theory. Bakewell considered that this might provide a theoretical approach that could analyse both structure and agency and their interactions, map out changes, elaborations and causal mechanisms over time, and encompass the internal and external dimensions of migration and "both forced and voluntary migration in a more comprehensive way" (Bakewell 2010: 1708).

Commentators on organised crime have indicated the value of a critical realist approach that evaluates the dynamic and interactive nature of agency and structure "to look beneath the surface" and identify the causal processes that produce change (Matthews 2014: 29). Indeed, Medel and Thoumi (2014) show how the development of organised crime in Mexico has followed a morphogenetic pattern, with synchronic elements leading to the structural elaboration of criminal groups. This makes it a pertinent lens with which to analyse the evolving dynamics of the three aspects that link organised crime and migration, as well as the dynamic nature of migration journeys and the decision-making that shapes them. This is the first time morphogenetic analysis has been applied in an extensive study on migration and associated issues. Its successful application in this study, while not exhaustive, demonstrates how such critical realist approaches can be used to simultaneously analyse aspects of structure and agency and to reveal complex causal effects and interactions over time and in relation to synchronic events, such as policy implementations. As such, it opens the way for more deeply structured and comprehensive application in future studies.

THE STRUCTURE–AGENCY IMPASSE

The structure–agency impasse has its roots in the development of modern migration theories. These theories tend to have diverged between structure or agency, resulting in dilemmas about how to accommodate structure and agency in migration theory in a comprehensive way and in ongoing difficulties in trying to reconcile these elements to better explain the contemporary

reality of migration. The 'manifold' motives for migration are not handled well by separate theories for different categories of migrants, nor is it necessarily useful to separate theories of internal and international migration, as there can be links and convergences between these (Van Hear 1998, Massey et al. 2008, Castles et al. 2014). As a result, there is a "need to connect theories focusing on agency and identities of migrant and the continuation of migration with macro-level theories on the structural causes of migration" (Castles et al. 2014: 46).

Reconciling this interplay between agency and structure within theory has proven to be challenging. Consequently, "theories of migration have tended to skirt around the problem of structure and agency" (Bakewell 2010: 1670), putting too much focus on one, rather than accepting the inherent dualism and their interrelation as dynamic forces of change. The recursive relationship between them is not as straightforward as one where agency is constrained or expanded by structural factors, because some structures are formed and altered by the agency and actions of individuals. While making progress to accommodate agency with structure, structuration theory (Giddens 1979, 1984) fails to consider sufficiently the contextual factors that enable or constrain agency or individual preference in decision-making (Stones 2005) or to "take account of the temporal disjuncture, when the activity of a social actor today contributes towards the future form of social structures, which will shape the context for social actors in the future" (Bakewell 2010: 1696). Some of this complexity can be found in the impact of policy implementation, "which can sometimes have unpredicted results, of either a positive or negative kind" (Richmond 1993: 9).

MIXED FLOWS AND TRANSIT MIGRATION

The structure–agency impasse could be at the crux of the dilemma over whether general migration theory can also encompass forced migration. Zetter et al. (2013) note that "micro-level focus on the agency–structure nexus" generates better understanding about mobility and displacement in conflict situations, by looking beneath the surface of mobility that ostensibly "seems both random and spontaneous" (Zetter et al. 2013: 224). Indeed, structural approaches better suit the "governance of international migration [that] is shaped by the conceptual distinction between 'voluntary' and 'forced' migration as mutually exclusive categories. In reality, of course, the distinction is far from clear-cut" (Van Hear et al. 2009: 1).

Distinctions between forced and voluntary migration, and a growing acceptance of the blurred lines between them, are at the heart of dilemmas in addressing transit migration, which is increasingly defined

by mixed flows with varying levels of potential international protection needs. This raises issues around "the inherent problems involved in conventional policy categories of 'types' of migration" (Collyer et al. 2010: 5) and the inability of categorisation and dichotomous approaches to address the complex motivations of the mixed flows in transit migration. This is reflected in dichotomous approaches to the situation in Mexico taken by regional commentators. Some adopt a structural approach, focusing on interstate relations and evaluating the impact of border control and securitisation, restrictive migration policy and the externalisation of migration policy (Castillo Garcia 2000, 2006, 2010, Velasco 2009, Alba 2010, Ángeles Cruz 2010, Casillas 2011, Verduzco and De Lazano 2011, Ceriani Cernadas 2013). Others take a migrant-centric approach, analysing the mixed motives for migration and the agency and strategies of people during transit (Gaborit et al. 2014, Marroquín Parducci 2015, Hernández 2015). A structure–agency approach to transit can therefore "reposition the analysis of modern non-linear, irregular migration in a framework that enables the researcher to identify the continuous interaction between the structural components and the individual agency" (Dimitriadi 2016: 44) and better accommodate the mixed nature of transit flows.

Applying the morphogenetic approach in my data analysis

I apply morphogenetic analysis to my data to generate understanding about how and why this situation evolved and continues to elaborate and to reveal the direct and indirect causal mechanisms of change over time. This advances understanding about why people flee criminal violence, how the involvement of organised crime in migration has evolved, and the nature and impact of state action. The key elements in each of my analyses are structure, agency, contextual factors – that is, structural elements and social factors – and time-specific (or synchronic) events, such as the implementation of a policy or a violent criminal incident. The morphogenetic approach is used to identify the causal role of such events given the contextual factors, thus also revealing any causal role of the contextual factors themselves. The nature and source of all these factors, however, is important when reflecting on accountability for adverse consequences of policy or on how to disrupt the processes that result in them.

I analyse changes to both organised crime and state factors as structural elements within this framework, because they are both structural factors on migratory transit through Mexico. Organised crime structures display highly emergent properties, being able to adapt and evolve in a

much more dynamic manner than state structures can because they are free of both bureaucracy and adherence to law and legal norms. Simultaneously, the morphogenetic framework enables better understanding of migrant agency and of the agentic properties of the state. Examining migrant agency without either differentiating between or conflating forced and voluntary migrants at the point of analysis enables a more coherent picture of how agency responds to opportunities and obstacles presented by synchronic events and contextual factors. Even when options are extremely limited, agency is exercised within the constraints of such obstacles and opportunities, rather than being limited itself. This approach enables us to see how agency shapes and reshapes the migration trajectory: why and when people move, where they decide to move to and the factors that shape their decisions along the way. Attention is also paid to the emergent and transforming properties of migrant agency, to bring new understanding about how it contributes to structural elaborations.

Analysis within this framework allows findings and conclusions to be drawn into broader debates and theories on migration, presenting the deep involvement of organised crime in transit migration in Mexico and Central America as adverse yet foreseeable consequences of government policy – consequences that pose serious risks to human rights. For instance, analysis of the causal mechanisms of structural changes exposes how policy provided fertile ground for the development of systematic criminal violence during migratory transit, how this resulted in people-smuggling becoming a protection racket to protect against attacks, how restrictive migration controls were implemented in response to successful people-smugglers transporting some of the tens of thousands of people fleeing criminal violence to the US border, and how people-smuggling operations responded following this policy event.

Without such an approach, it is difficult to understand how factors such as migrant agency, migration controls and government policy have influenced these developments, whether there were specific causal mechanisms, and how these phenomena fit into the broader debate about the unintended consequences of migration controls. In particular, the approach enables better understanding of how macro-level decision-making influences the micro-level actions and strategies of the different parties. Such analysis is critical in order to identify and understand any indirect or direct state responsibility for the situation and any implications for the delivery of policy in areas affected by criminality and impunity. In addition, the book explores the potential of morphogenetic analysis as a model for understanding and foreseeing the likely adverse consequences of policy when implemented in a toxic environment of systemic corruption, endemic criminal violence and impunity.

Engagement and contribution

The book makes three original contributions to the existing body of knowledge that will be interest to both the academic community and to international and national policymakers and practitioners. Firstly, it develops knowledge and understanding about the ongoing situation of human mobility in Mexico and Northern Central America, and of organised crime and migration more broadly. Secondly, it uses a critical realist analytical framework to evaluate agency and structure simultaneously, addressing theorists' concerns about the troublesome relationship between agency and structure in migration theory, and providing causal explanations of change. Thirdly, it connects with three lines of academic debate, bringing together strands on agency and decision-making in mixed migration, policy gaps and adverse outcomes, and state accountability. As such, it contributes to broader debates on migration and on theories of migration, as well as advancing understanding about organised crime and human mobility.

Firstly, it addresses a contemporary issue, contributing knowledge and analytical depth about the ongoing situation and dynamics shaping internal displacement and external migration and organised crime in Mexico and Northern Central America. Three key aspects of organised crime are examined: as a driver of external migration, as a threat to migrants in transit, and as a facilitator of unauthorised migration through people-smuggling. Rather than examining these as three independent and disaggregated phenomena, it takes an integrated perspective on the links between organised crime and migration, allowing for a rich picture of the situation to be presented. This builds on region-specific substantive knowledge but also has relevance for other situations globally that are affected by some of these issues.

It further deepens understanding about the emerging issue of displacement caused by organised crime, framing this within the concept of criminal governance. By examining the precarity and seemingly random movements of internal displacement and the precise reasons people are forced to abandon their countries because of criminal violence, it connects decisions about initial mobility with those taken in transit and the broader migration continuum. It analyses decision-making in Mexico, where people may decide to stay as their final destination or as a temporary hiatus in their ongoing journey – adding detail about how people navigate risks during transit and opportunities for protection. The research sites were chosen in order to capture the experiences of migrants while living in this liminal space: Mexico may not have been originally considered as a destination for many people, but rather as a transit place to another destination – namely the USA. The book contributes insights

into their decision-making processes and experiences while in Mexico, and builds on current understandings about this liminal space, how decisions are made during transit, and connects these with the factors that drove initial mobility.

Secondly, it responds to Bakewell's (2010) call for simultaneous analysis of agency and structure in the study of migration, making novel use of Archer's morphogenetic approach to bring together macro-level theories (structural change, policy) and micro-level theories (agency, decision-making). In doing so, it provides original analysis that explains the evolution of organised crime's involvement in migration-related activities, exposing the causal mechanisms and policies that led to this. It also brings new understanding to decision-making and the exercise of agency in relation to structural constraints throughout the migration continuum.

Morphogenetic analysis generates causal explanations about the situation and reveals the dimensions of the role and responsibilities of the Mexican state through evaluation of the structural elaboration of organised criminal activities in relation to migration, as well as of state and policy developments. It adds depth to understanding of system feedback by looking at how these elements interrelate with each other, the role of agency and the impact of contextual factors. It also brings new understanding about the adverse consequences of migration controls and their potentially foreseeable nature. I extend this latter line of debate, by looking at the consequences of non-migratory policy, impunity and corruption for organised crime's involvement in migration, as well as those of migration controls. The book also looks beyond the involvement of organised crime as a primary consequence of such policy, by examining the subsequent weakening of state institutions through corruption as a secondary consequence.

Thirdly, it contributes to broader debates within existing scholarship that concern agency and decision-making in mixed migration, the adverse outcomes of policy, and state responsibility. It pulls together arguments about agency in diverse theories on migration (acute–anticipatory kinetic model, proactive–reactive continuum and transit migration) to show how, in all situations, agency responds to the obstacles and opportunities with differing degrees of urgency to shape the trajectory throughout the migration continuum. In bringing these strands together, it presents a coherent framework for studying mixed migration, and for evaluating initial mobility and the transit portion of migration together as part of a broader continuum.

This book addresses some of the ongoing difficulties in accommodating mixed migration by putting migrants' decision-making and agency

central to analysis at key points. As well as addressing the agency of forced and voluntary migrants within the same framework of analysis, all points on the migration trajectory – from initial mobility to the transit portion – are analysed within the same framework. This allows for equal analysis of decisions made by people at different points of the proactive–reactive continuum, taken with varying degrees of urgency and made throughout the migration journey. It also allows internal displacement to be viewed as part of the broader migration trajectory, rather than seen as separate from external migration, enabling it to be considered as the first stage of transit, if and when internal displacement fails as a protection strategy. This approach enables a better understanding of this decision-making and agency within the broader social context of migration in the region and within the context of various structural factors – from a lack of state protection in the country of origin, to the threat of organised crime during transit, to migration controls that aim to prevent migrants' agency from being exercised.

Following insight gained from analysis employing the morphogenetic framework, the book argues that policies intended to curb migration and disrupt organised crime have instead strengthened criminal groups, deepened their involvement in migration-related activities and weakened Mexican state institutions through corruption, leading to further manifestations of violence and a worsened situation of human rights during migratory transit. It argues that when criminal violence is a key push factor for mobility, neither these risks nor increased migratory controls significantly constrain the agency of those who need to flee, and traditional pull factors serve more to define the destination than to influence any decision to migrate. As well as providing new understanding about the consequences of implementing policy in areas affected by endemic violence, impunity and corruption, it examines how the externalisation of US migration controls to Mexico conflicts with international obligations towards those who have fled violence and persecution. It then reflects on state responsibility in the context of externalised controls, endemic exploitation and abuse of migrants by criminal groups.

The structure of the book

Throughout this book, the arguments build on each other and are synthesised as it progresses, moving from people's lived experience of displacement, through the involvement of organised criminal groups in exploiting migrants in Mexico, to the role and responsibilities of the state in all this.

Chapter 1 advances current understanding about the internal and external dimensions of migration driven by violence and persecution by criminal groups, generating new insight about agency and decision-making in situations of forced migration, and how this shapes initial mobility and internal or external flight. It explains the impact that organised crime and criminal violence in Northern Central America is having on internal displacement and external migration, presenting an analysis of the seemingly random movements and precariousness of internal displacement and of why people decide to flee their country. It seeks to determine the impact of violent incidents and of risk levels on people's decisions to take external rather than internal flight and to reveal the shared logic behind ostensibly random movements. This analysis provides new understanding about how events have different impacts on people who have been victims of crime and persecution, those fleeing a lower level or immediacy of risk, and those moving because of general violence or economic reasons linked to crime.

Chapter 2 explores how people evaluate risks of violence during transit and weigh up opportunities for protection they encounter. It looks at how migrant agency is affected by prior awareness of risk, and how people consider risk from criminal and state actors when they leave their country and during transit, and by the actual manifestation of violence during transit. It analyses decision-making following a criminal attack during transit, when people may encounter unexpected opportunities to regularise their migratory status. Analysis of this decision-making is framed as part of the broader migration continuum, where decisions affect the trajectory from initial mobility and throughout transit. It then looks at how the receipt of information about the right to seek asylum may lead to people changing their intended destination and remaining in Mexico. It analyses how people make decisions and how they balance new information and opportunities with pull factors such as social capital, arguing that when criminal violence is a push factor for mobility, pull factors serve more to define the destination than to actually drive migration.

Chapter 3 examines the threat from organised crime to migrants in Mexico. It explores how this has developed into a structural factor during transit, and the roles migration controls and other non-migration-related policies have played in this develo pment. This analysis provides greater understanding of how the presence, activities and threats of organised crime during transit changed as a result of increased migration controls and non-migratory government policies and how specific policy events in 2006 and 2014 shaped this change. It argues that, although an increased threat from organised crime is a foreseeable adverse consequence of restrictive migration controls in the region, government policies that

were not connected to migration have had significant causal effects on this development. It also demonstrates how increasing migration controls in a context where direct violence against migrants is widely tolerated can lead to new manifestations of such violence. This brings new insight into the impact of delivering both migration policy and policy unrelated to migration in an environment of endemic criminal violence, corruption and impunity.

Chapter 4 looks at the evolution of organised crime's involvement with people-smuggling in the region. It builds on debates on the impact of migration control on people-smuggling and on debates about the unintended consequences of migration policy. It extends these debates by evaluating the role of corruption in facilitating this, showing how people-smuggling became an organised crime protection racket that compromises state integrity and further entrenches corruption. The first part demonstrates how the nature and operations of people-smugglers respond agilely to the imposition of migration controls, and how organised crime strengthens its involvement in people-smuggling, while corruption related to this weakens state integrity. The second part examines aspects of agency, looking at its transforming role in policy response and how migrants and people-smuggling operations subsequently responded, albeit within these constraints. It argues that the externalisation of migration controls can have adverse consequences on people-smuggling operations, which include increased corruption and a corresponding weakening of state integrity.

Chapter 5 develops new insight into the role of policy and the responsibility of the state in these three aspects of organised crime involvement with migration in Mexico. It is pivotal to the book, tying together the individual findings from each of the previous chapters to evaluate policy and state responses, obligations under international human rights law, and the empirical situation in practice, looking in particular at the adverse consequences of policy. It analyses the part played by Mexico in the externalisation of US migration controls, and how their implementation sits alongside the state's international obligations to those who have been forced to flee criminal violence in Northern Central America. It argues that the adverse consequences of externalised migration controls are entirely foreseeable within the environment of systemic corruption, endemic criminal violence and impunity, and that harm to migrants during transit is 'collateral damage' in the drive to externalise border control. It then examines the causal role of state inaction and impunity in the widespread and systematic abuse of migrants by organised criminal groups and analyses state accountability for the implementation of policy despite its foreseeable consequences. Finally, it explains some implications of these findings for notions of state accountability.

The conclusions and reflections chapter is divided into four parts. The first part discusses the new knowledge and understanding that my research brings about the ongoing situation in Mexico and Central America, and about the links between organised crime and migration more broadly. The second part reflects on the usefulness of the morphogenetic approach as an analytic tool, as well as its potential use in the future development of theory and multidisciplinary approaches to migration research. The third part pulls the threads of debate together, evaluating the contribution that this book makes to broader academic scholarship and understanding. Finally, it offers some reflections on the findings' importance and relevance for the evolving situation and ongoing challenges in the region and for other global contexts.

Notes

1. Acts of extreme violence (such as decapitation, massacres and the public display of corpses) are typically used to demonstrate power and authority, or to act as threats and deterrents to third parties, such as rival organisations and political authorities. This type of contingent or symbolic violence is distinct from transactional violence that is used in the carrying out of their economic activities.

2. Throughout, this study refers to the situation in El Salvador prior to 2022. It has changed dramatically since that time.

3. I use the term 'migrant shelters' (Spanish term *albergue*), even though by the mid-2010s, many of these hosted almost exclusively people who were applying for asylum or a humanitarian visa in Mexico and referred to themselves as 'refugee camps' due to their changed role. These shelters run along the key migratory routes through Mexico, and were originally places where migrants could receive free accommodation, food and medical care for a few hours or days, access advice and report human rights abuses. They were established by civil society and religious groups, and tend to operate as a loose chain, sharing information between them, collaborating on recording and reporting human rights abuses, and submitting joint complaints of abuse to the authorities.

4. *Ley sobre Refugiados, Protección Complementaria y Asilo Político* (Law on Refugees, Complementary Protection and Political Asylum), 2011.

5. See Van Hear (2004) for how access to resources shapes mobility and defines the options for migration, with a "hierarchy of destinations that can be reached by migrants and asylum seekers, according to the resources – financial and network-based – that they can call upon" (Van Hear 2004:3). Dependent on access to such resources and social capital, decision-making may also be different, with people choosing, for instance, to take anticipatory flight at a lower level of risk, or choosing to remove those who are more vulnerable to risk in a more planned manner, whereas "[o]thers have to settle for less attractive and less secure forms of migration and destinations, notably internal displacement" (Van Hear 2004: 28).

Chapter 1

Criminal violence as a driver of internal displacement and external migration

During 2013 and 2014, a displacement crisis emerged in the countries of Northern Central America (El Salvador, Guatemala and Honduras), as tens of thousands of people fled criminal violence and persecution by criminal groups. Displacement and out-migration in the region were not new phenomena and this latest iteration emerged amid the context of ongoing mixed migration, but involved new and different actors, new displacement dynamics and people with new types of potential protection needs. This provided the context for my own research: a new flow of people fleeing the region, with gangs, crime and violence driving hundreds of thousands of people from their homes.

Using empirical data gathered in my 2015 fieldwork, supplemented with findings from further research and fieldwork conducted between 2018 and 2023, this chapter examines how internal displacement plays out in Northern Central America, with a focus on El Salvador and Honduras, setting out the factors that people consider when they flee their homes in search of safety and framing these within the conceptualisation of criminal governance. Flight from organised crime does not appear to be a linear process, either in terms of where people go or their individual journeys, with decision-making at the point of initial mobility and throughout the migration journey resulting in ostensibly random patterns of movement and changes. By analysing the context and constraints within which people resort to displacement, how this results in unpredictable, atomised and random movements, and why internal displacement is precarious and transient with a strong cross-border aspect, it reveals the rationale behind apparently random and unpredictable

movements and the structural factors that cause this. This sets up the context for the second half of the chapter, which connects with human stories and the lived experience of displacement, examining the decisions that people make about the initial flight and subsequent mobility, the context in which they do this, and the displacement dynamics this produces. My research brings new understanding about why people were compelled to resort to external flight because of gang violence and the factors they considered in their decisions to leave their country to find safety.

The morphogenetic approach (see Introduction) enables a deeper understanding of and an explanation for why and when people move, where they decide to move to and the factors they consider in their decisions along the way. My findings are positioned within debates about decision-making in the proactive–reactive continuum of forced migration (Richmond 1988, 1993, Van Hear 1998) and the kinetic model of initial mobility (Kunz 1973, 1981). Flight from organised crime appeared to have more nuance than these researchers accommodated, with three main trends emerging from my data that showed how people took emergency, pre-emptive and evasive flight, depending on the immediacy or the imminence of the risk they faced as well as other contextual factors. By making the decision-making process central to the analysis, this chapter argues that, in the case of people fleeing, violent events interrelate with contextual or structural factors and have a strong effect on their agency, and that their agency far outweighs the structural challenges they face. This analytic approach also enables the chapter to connect with debates around efforts to connect the internal and external dimensions of displacement in a meaningful way (Van Hear et al. 2009). In doing so, it responds in part to Cantor's (2014) call to deepen understanding about the links between internal displacement and external migration caused by criminal violence in Northern Central America, further arguing that, given the ongoing risk and lack of state response, internal displacement should be considered a transit stage – or part of the transit trajectory – for those who abandon it in favour of external migration.

Migration out of Northern Central America

Locating contemporary trends within the historical context of migration out of Northern Central America allows for the influence of criminal violence on migration to be understood as a shift in the dynamics of people leaving the region, rather than as an entirely new phenomenon of outmigration, and for individual decision-making to be understood within this context. Organised crime and widespread violence with entrenched

impunity is one of a range of contemporary drivers of displacement and out-migration. These include violence based on gender or sexuality; militarisation and political repression; poverty and inequality; a lack of economic opportunities; food insecurity; and the impact of climate change, extreme weather events, natural disasters and large development or infrastructure projects.

Historical context of displacement and migration in the region

The first large flows out of Northern Central America started during the civil wars in Guatemala and El Salvador in the late 1970s and throughout the 1980s, declining in the early 1990s when the conflicts ended. The main destination for all these flows was the USA, although there was also significant relocation to Mexico and elsewhere in Central America. Large flows of migration out of Honduras began later, triggered by economic problems in the 1990s. In the late 1990s and early 2000s, a series of natural disasters in the region provoked further out-migration, and the USA granted Temporary Protected Status (TPS) to Salvadorans and Hondurans who were in the country. Throughout the 2000s, immigrant social networks in the USA influenced migration for economic reasons and family reunification, and there was a significant increase in the number of women migrating from the region.

Criminal violence as a driver of migration

In the early part of the twenty-first century, there were indications that some people's reasons for leaving countries in Northern Central America were shifting, and that criminal violence and gang activity in the region were major drivers in shaping this trend. During this time, there was a marked shift in the demographic composition of migratory flows, indicated by high volumes of children, unaccompanied minors and entire families. Humanitarian organisations noted this demographic shift – both between 2006 and 2008, and again from 2013 – and reasoned that there could be something happening in the region; that some new factors could be driving people to leave their countries.

From 2011, a growing number of unaccompanied minors and family groups arrived at the US border from El Salvador, Guatemala and Honduras. At first these were mostly adolescent boys (of fifteen to seventeen years), but then increasingly numbers of unaccompanied minors, children and entire families were arriving at the border, with a notable rise in the number and proportion of girls and younger children (Krogstad et al. 2014).

In June 2014, after more than 68,000 unaccompanied Central American minors were apprehended at the US–Mexico border in one year, US President Obama declared the situation an "urgent humanitarian situation".[1] The flow continued to increase and in April 2016, the United Nations High Commissioner for Refugees (UNHCR) clarified that the number of people fleeing violence in the region had reached levels not seen since the region was affected by civil wars and that pervasive violence and persecution by criminal actors had become the principal cause of migratory movement from Northern Central America (UNHCR 2016a).

The other contemporary reasons for migration did not disappear, but widespread gang and criminal violence also began to drive urgent flight and an increasingly large amount of external migration and internal displacement. The USA was the main destination for people fleeing Northern Central America, with huge influxes at its border. Many also migrated to other neighbouring countries, resulting in a surge of people seeking safety across the region. Violence, insecurity and organised crime in El Salvador, Guatemala and Honduras also aggravated other social and economic problems that can be a factor in driving migration (Clemens 2017). In turn, these economic and social problems themselves aggravated the levels of criminal activity and insecurity, resulting in a vicious circle of poverty and crime. Thus, while criminal violence emerged as a discrete push factor, it also exacerbated existing push factors, such as economic reasons. Given the historical context of migration from the region, this indicates a shift in the trends of human mobility in the region, rather than an entirely new phenomenon of movement.

New in-country migration controls in Mexico – *Plan Frontera Sur*

In response to what US President Obama termed the "urgent humanitarian situation" of the arrival of tens of thousands of unaccompanied minors and family groups at the southern US border, new in-country migration controls were implemented in Mexico in 2014. Known as *Plan Frontera Sur* (also *Programa Frontera Sur*), or the Southern Border Plan, this was widely understood to be the outsourcing of US migration controls (Riesenfeld 2015, Tuckman 2015, Vogt 2020, Hiemstra 2019, see Hiemstra 2019: 48–9 for technical aspects of *Plan Frontera Sur*).[2] As such, it was designed to treat the situation as an issue of migration rather than one of possible refugees, thus enabling the USA to avoid direct responsibility for the safety and welfare of these people – including potentially granting them asylum (Swanson et al. 2015, International Crisis Group 2016, Hiemstra 2019).

Due to the increased migration controls in Mexico, people fleeing criminal violence in Northern Central America faced additional dangers during migration from both state officials and criminal actors, as well as the arduous nature of the journey. Yet these new migration controls did not stop the wave of migration towards the USA, but instead led to unexpected outcomes – notably that many Central Americans chose to regularise their stay in Mexico and thus avoid further risks on the journey north (Natera 2015). Nonetheless, by the end of 2015, figures from US Customs and Border Protection showed that the numbers of unaccompanied minors and family groups arriving at the US border had once again risen to the levels seen before the implementation of *Plan Frontera Sur*, despite a substantial increase in deportations from Mexico to El Salvador, Guatemala and Honduras. The period in which solely these controls were implemented (2014–16) provided the time window for my analysis of the changes *Plan Frontera Sur* provoked to various dynamics in Mexico. It should be noted, however, that the controls continued after this date, absorbed into other actions by Mexico's Instituto Nacional de Migración (INM).[3]

Organised criminal groups and an emerging displacement crisis

The situation of insecurity and criminal violence in Northern Central America was now evidently a factor in many people's decision to leave their country. This is not to say that the previous reasons for migrating had dissipated or that they had been eclipsed by this new factor, but that a new element – or rather the most recent element – was added to the mix. For some people, criminal violence became one of a number of reasons for leaving their country, with people migrating because of growing violence but also for economic reasons, family reunification and other emerging factors such as prolonged drought and food shortages in the region (Chishti and Hipsman 2015, Knox 2018, 2019a, World Food Programme 2017). However, for others – particularly those who had been victims of crime or targeted persecution – it became the primary reason or a standalone factor.

Criminal violence in Northern Central America

During the first twenty years of the century, there was a dramatic increase in violence perpetrated by criminal groups in Northern Central America (see Introduction), particularly in El Salvador and Honduras. All three

countries have suffered from endemic violence and citizen insecurity, had some of the highest rates of intentional homicide in the world between 2000 and 2020, and were acknowledged to be the deadliest countries outside of declared war zones (Cantor 2016a). Members of organised crime and criminal groups appeared to be responsible for the overwhelming majority of these homicides, although there are a range of perpetrators, including hitmen (or *sicarios*), intimate partners and state actors. However, homicide rates alone do not explain the nuance, dynamics or interlocking nature of personal and societal violence or how these contribute to displacement (Cantor 2016a). In El Salvador, sudden increases in violence and murders followed government crackdowns on gang activity, as well as atomisation and rifts within the gangs and cells (until 2022, that is).[4] In Honduras, gang activities and violence rose dramatically after the 2009 coup, resulting in criminal groups having total dominance and de facto control in certain areas. Guatemala appeared to have been less dramatically affected than Honduras and El Salvador, although the situation of insecurity remained extremely poor, with localised areas of very high violence and several provinces understood to be under the control of transnational organised crime groups (Dudley 2011, 2016a, 2016b, Ávalos and Puerta 2017).

This period of increased and extreme violence resulted in a parallel increase in the displacement of people in the region. This manifested as both internal displacement and external migration, as more and more people were forced to leave their homes to protect their lives and families in the absence of effective state protection (Ferris 2013, Cantor 2014, IDMC 2015, CIPPDV 2015, Haugaard 2016, La Mesa 2016). This also generated a new demographic of displaced people fleeing their countries – notably, significant numbers of unaccompanied minors and entire families (UNHCR 2014a, 2014b, 2015). Empirical reports showed that escalating levels of crime and violence had become a primary push factor for migration out of Northern Central America (Hiskey et al. 2014, UNHCR 2014a, Haugaard 2016). While extant pull factors were still pertinent and continued to prompt migration, it appeared that these were of lesser – or different – consideration for those fleeing violence.

Understanding external migration driven by organised crime as this new factor emerged

Organised criminal activities were causing significant displacement in the region, both in Central America and in parts of Mexico, and continue to do so. As this new phenomenon emerged, understanding about it started to develop (Ríos 2014a, 2014b, Albuja 2014, Cantor 2014, 2016b,

UNHCR 2014a, 2015, 2016a, Amnesty International 2016, Sanchez Soler 2016a). However, at the start, it was unclear to what extent organised crime was a standalone factor or a contributory factor in the decision to migrate externally for the different groups of people affected.

By the mid-2010s, reports indicated that the proportions fleeing violence within the broader context of regional migration were significant. One study found that, while 56% of Central American migrants had decided to migrate for economic reasons, 43% had left because of violence in their countries of origin and were frightened to return (REDODEM 2014). Researchers consistently found that the vast majority of unaccompanied Central American minors they interviewed in migration detention in the USA and Mexico said that violence was the primary reason for leaving their country. Many described an urgent need to flee the increased influence of organised crime groups, the degenerating security situation or a threat to their life, with about half saying that a specific violent incident had triggered their exit (WRC 2012, Kennedy 2014, UNHCR 2014a, 2014b). These studies indicated that the majority of those leaving El Salvador, Guatemala and Honduras were doing so because of reasons connected to criminal violence, and that they had often personally experienced violence in their country of origin, giving reasons for leaving their country that indicated potential international protection needs.

There was growing evidence that family ties were now determining destination, rather than prompting migration, for those fleeing violence and threats. In other words, people who fled their home country decided to go where they already had family, rather than leaving in order to reunite with family (Kennedy 2014, UNHCR 2014a, Nazario 2015b). For those fleeing criminal violence, pull factors such as family reunification appeared to have become a consequence of flight rather than a cause of it, often determining the intended destination (UNHCR 2014a). These pull factors were still critically important for those who had to flee, but in informing migration trajectory rather than influencing in any significant way the actual decision to migrate.

Human rights organisations raised concerns about the risk of return for people who had fled from El Salvador, Guatemala and Honduras, which was particularly pertinent after the implementation of *Plan Frontera Sur*, and about the increased and expedited deportations of Central Americans (see Chapter 5). People who had fled were justifiably scared for their safety and even their life if they were deported, and human rights organisations and researchers documented that many people had been killed or were at serious risk on their return (Human Rights Watch 2016, Amnesty International 2016). With the situation that originally drove people out of their country persisting, this led to repeat migration

because it was not safe to remain (Nazario 2015b). People who fled targeted threats or violence and who were deported back to their countries of origin were unable to return to the place where they experienced violence and had no other option but to migrate again. One study found that nearly half of people deported back to El Salvador from Mexico planned to migrate again (La Mesa 2016: 20). Other studies examined the cyclical nature of forced migration–deportation–remigration caused by inadequate state responses to people in need of protection in countries of origin and destination and by the persistence of pervasive violence and weak state institutions in Northern Central America (Burt et al. 2016, Kwan et al. 2017, Carlson and Gallagher 2015, Clemens 2017).

Internal displacement caused by gang violence in Northern Central America

While accurate data on internal displacement was not available or being methodically captured – a challenge that persists today – studies revealed that significant and increasing numbers of people were being affected throughout the 2010s (Knox 2018, 2019a). A study on internal displacement in Honduras found that 4% of people in the twenty counties (*departamentos*) evaluated had resorted to internal displacement, and that the vast majority (68%) of these displacements were caused exclusively by acts of violence and insecurity (CIPPDV 2015). Similarly, in El Salvador annual surveys through the 2010s found that between 2% and 5% of Salvadorans had moved internally because of criminal violence and threats – a third of them multiple times in the year – and more than one in ten said that a member of their household had left the country during the last year because of threats or violence (IUDOP 2012, 2015, IDMC 2015). These trends of internal displacement continued throughout the 2010s and into the start of the 2020s, according to data from the UNHCR and the Internal Displacement Monitoring Centre (IDMC).

Throughout most of the 2010s, Northern Central America was the most violent region of the world that was not a declared conflict zone, but the manner in which displacement was occurring appeared to be somewhat different from movement out of warzones (Cantor 2016a). People living in certain areas – such as poor, marginalised urban areas with *mara* presence – were most vulnerable to displacement, although people in some wealthier areas affected by gang extortion may also be compelled to relocate, as might members of rural communities affected by drug-trafficking gangs (Cantor 2014). Displacement tended to occur after an event or threat of violence and affected individuals or entire families, who often fled immediately if they understood themselves to be at risk

(Cantor and Serna 2016, Refugees International 2015, UNHCR 2014a, 2015, La Mesa 2016). Displacement was clandestine and not overtly visible, as people would abandon their homes individually and flee discreetly and cautiously, so as to move beneath the radar of the criminal actors that they were fleeing (La Mesa 2016, Cantor 2014, Cantor and Serna 2016, Knox 2018, 2019a). All these atomised and individual moves happened in a drop-by-drop manner (Cantor 2014, CIPPDV 2015: 22) but, together, could result in entire streets, neighbourhoods or even small communities gradually emptying, breaking the social fabric and tearing apart neighbourhoods, as well as disrupting the lives of individuals (La Mesa 2016, Cantor 2014, Knox 2018).

There did not appear to be distinct patterns of movement to specific places, although at first, the movement was predominantly intra-urban and inter-urban (Cantor 2014). Family connections and social capital were important determinants in the choice of destination for internal displacement and in post-displacement outcomes, and those with limited access to these had poorer outcomes (Cantor and Serna 2016). Wealthier families and members of the middle class with access to economic resources might rent a home in a safer area of their hometown or use these resources to leave the country (Cantor 2014, Knox 2018, 2019a). Risk might persist after internal displacement, depending on the circumstances, with gangs able to locate and harm people who have fled due to widespread control and strong communications networks, as well as the small size of the countries (Cantor 2014, Cantor and Serna 2016, Knox 2018, 2019a).

Many people initially attempted to relocate within their home country but, when they were unable to find protection and escape the danger internally, their only option was to leave their country (Kennedy 2013, 2014, Refugees International 2015). A 2015 study carried out by the UNHCR found that two-thirds of women they interviewed who had fled to the USA from Northern Central America had previously tried relocating in their countries but had been unable to find safety there (UNHCR 2015). Another study found that some people had been reluctant to resort to internal flight before leaving their country and that this decision was often influenced by any social capital they had outside El Salvador and/or access to people-smugglers (Ramos 2015). Internal displacement was not an effective protection strategy for some Central American youth because of the persistence of the reasons that spurred initial mobility. Limited resources and social connections may also have contributed to its failure, which led to their out-migration (Escamilla García 2021). A picture emerged of internal displacement either not being considered before external flight was taken or being abandoned in favour of external migration. In both cases, this was because of the reach of gangs and the inability or

unwillingness of the states to provide protection and support for people who had been internally displaced (Knox 2018, 2019a). Cantor (2014) also stressed that more research was needed to identify the circumstances under which such internal migration in this region become external migration – a call to which this chapter and my analysis respond in part.

Understanding how organised crime was causing this emerging displacement trend

Evidence emerged that violence and threats perpetrated by Central American gangs had become a primary reason – and often the sole reason – for external migration. Studies found that those who were recent victims of a crime had an increased intention to migrate relative to those who had more general concerns about criminal violence (Hiskey et al. 2014, Pederzini et al. 2015). Contemporaneous studies of women who had a claim for asylum accepted in the USA after fleeing 'epidemic levels' of gender-based violence and other criminal violence in El Salvador, Guatemala and Honduras found that the vast majority had experienced direct threats or attacks from criminal gangs or *maras*, and cited this as their primary reason for leaving (UNHCR 2015). Some had children who had been killed by gangs, recruited by gangs or were at risk of being recruited, while others cited extortion and suspicion of being involved with rival gangs as the reason for their flight (UNHCR 2015, Human Rights Watch 2016). By the mid-2010s, reports consistently showed that escalating levels of crime and violence had become the primary factor for out-migration from the region, and that border enforcement and policies designed to deter migration were ineffective in the face of such a powerful push factor (Chishti and Hipsman 2016, Hiskey et al. 2018). These trends prompted additional attention from a perspective of international protection needs and asylum cases of those who had fled criminal violence in Central America (Pong 2014, Cantor 2016c, Carlson and Gallagher 2015, Serna 2016, Medrano 2017, McNamara 2017).

By the mid-2010s, there was a growing understanding about the way in which criminal groups drive forced displacement and migration in the region (Kennedy 2013, Cantor 2014, 2016b, Albuja 2014, Ríos 2014a, 2014b, Cantor and Serna 2016, Knox 2018, 2019a). Cantor (2014, 2016b) examined displacement caused by each of three types of criminal groups in Northern Central America (street gangs, local drug-trafficking groups or *transportistas*, and Mexican cartels), arguing that the nature of the criminal group – rather than the victim – should be the starting point for analysis because these provoke different types of violent interactions and displacement. Cantor (2014) differentiated between displacement deriving from everyday

activities (for example, betrayal, rivalry, resistance, confiscation of property or land, and general insecurity) that generated varying levels of individual risk and displacement deriving from periodic incidents (for example, violent disputes between different groups) that generated rising levels of violence and the broadening of targets for revenge and retaliation.

Much focus was given to the immediacy of flight after a pivotal event, such as the murder of a close relative, although the decision to flee across borders could also be made after a long period of consideration or a failed internal displacement (Nazario 2015b, Ramos 2015, Tuckman 2015, Human Rights Watch 2016b, La Mesa 2016). People who had received threats to their lives and/or had been victims of criminal violence, or whose close relatives had been victimised, took these incidents seriously and might consider leaving their home and sometimes their country: "if they have the resources to do so, these families pack up and run" (Refugees International 2015). Incidents within this wave of gang violence that are linked to displacement include the murder of a close relative or partner, attempted murder or violent assault, death threats to individuals and/or extending to family members, forced recruitment to gangs, extortion and sexual violence, including the threat of forced intimate involvement with gang members (Cantor 2014, Ramos 2015, La Mesa 2016, Knox 2018, 2019a, 2019b).

Serious, targeted persecution can be a standalone driver of external migration, whereas fear of victimisation or generalised violence may act as one of several compound reasons, together with such factors such as family reunification and lack of socio-economic opportunities. The testimonies of unaccompanied child migrants indicated that, while the threat of violence can be one of several cumulative reasons for migration, it is frequently a significant or decisive factor, with a specific incident or threat often being the tipping point (UNHCR 2014a). Hiskey et al. (2018) found that people who had been the victim of multiple incidents of crime over a year were the most likely to flee, reflecting the importance of this as a driver of flight and noting that "The desire to flee from violence appears to overshadow considerations about any future risks they might face if they flee that reality" (Hiskey et al. 2018).

Just as people fled because of a targeted threat to personal security, they also fled from a generalised fear of violence. Poor perceptions of local safety and higher levels of criminal violence increased the likelihood of migration intentions and, as previously mentioned, this intention was most likely to be realised after being the victim of a crime (Hiskey et al. 2014, 2018, Cutrona et al. 2023). This reflects similar findings from Ríos's (2014b) study on migration outflows linked to violence perpetrated by organised criminal groups in Mexico. However, the complex and compound reasons for migration were also outlined – external migration

from the region was happening because of growing violence but also had dimensions linked to family reunification and economic reasons (Associated Press 2015, Wiltz 2015, Clemens 2017). Criminal violence also aggravated or intersected with other drivers of migration. The adverse impact of pervasive violence and endemic criminal activity on economic security, business opportunities and personal freedom can also act as a factor in the decision to migrate externally (Clemens 2017).

As these dynamics persisted, subsequent studies demonstrated that people were continuing to leave because of rising levels of local risk as well as when they have been the victim of crime. Clemens (2021) found that increased apprehensions of unaccompanied minors from Northern Central America in the USA correlated with increases in homicides in their hometowns, concluding that such violence is a major determinant for external migration. Other factors, such as economic reasons and social capital in the destination, were also found to be important. Cutrona et al. (2023) consider external migrations from El Salvador, Guatemala and Mexico that are linked to criminal gangs and activity within the broader context of migration – in particular for economic reasons. They found that criminality and physical insecurity were drivers of migration out of all three countries and that social capital – a close friend or family member – in the destination country was an important factor in supporting migration.

Understanding the role and response of the state as this new wave of displacement emerged

The violence and threats that people fled stemmed from the increased territorial control of organised crime groups and *maras*. This situation was both created in the vacuum of adequate state control and compounded by inappropriate and ineffective state response and protection. The 'absent' or ineffective state, repressive security-led responses to gangs, and the criminalised or corrupt parts of state apparatus all play a role in fomenting gang violence in marginalised communities, thus contributing to displacement rather than addressing the root causes of violence and providing effective response to victims (Boerman et al. 2023, Knox 2018, 2019a, 2019b, Bergmann 2019, Wolf 2017). An absence of effective state presence in poor and marginalised areas – from the perspectives of both security and social provision – created vacuums in which criminal groups were able to establish and assert their authority, enforcing it with violence. The political, economic and social exclusion of people – especially the young – who live in these marginalised areas further contributed to this, making them vulnerable to involvement in criminal activities as a survival strategy, for both economic and protection reasons.

Rather than addressing the root causes of violence and this widespread criminal presence, the repressive and security-led responses by states to criminal violence provoked the displacement of citizens in both El Salvador and Honduras. Such citizens fled night-time raids and the fear of being arbitrarily targeted by the security forces, and this shifted gangs into previously unaffected areas, causing yet more displacement (Lakhani 2017, Knox 2018, 2019a, 2019b, Bergmann 2019). From my interviews with experts and migrants, I learned that 'death squads' had been conducting 'social cleansing' in affected neighbourhoods since the mid-2010s, resulting in the disappearance or killing of suspected gang members and criminals. My interviewees noted that there was complexity about the range of state and non-state actors involved in these extrajudicial executions, particularly in Honduras.

Violence and displacement are perpetuated by a failure of states to respond in an effective manner to victims, violence prevention and internally displaced people. In both Honduras and El Salvador, impunity derives from three intersecting factors: practical challenges due to weak institutions; corruption that means that information could be leaked to gangs or that institutions are infiltrated; and a reluctance to report on the part of citizens (Knox 2018, 2019a). This reluctance to report or approach the authorities is deeply linked to gangs' code of silence and the risk of violent retribution against those who breach this, as well as a lack of trust due to corruption and ineffective institutions (Cantor 2014, Knox 2018, 2019a).

Concern was expressed about the initial reluctance of Central American governments to recognise that this type of internal displacement was an issue, to monitor it systematically and to gather comprehensive data about patterns and numbers (Dudley 2016a, Marroquín Parducci 2015). While Guatemala still does not recognise displacement caused by violence, Honduras has done so since 2013, and El Salvador and Honduras passed legislation on displacement caused by gang violence in 2020 and 2023, respectively. However, as I write in 2025, these reportedly remained inadequately funded and no public policies have been adopted, with the roles and responsibilities of the state ceded to civil society.

Organised crime and disorganised movement: conceptualising internal displacement in El Salvador and Honduras

There are some similarities between displacement drivers and dynamics in El Salvador and Honduras, as well as some differences between

how violence and displacement play out in each country.[5] This section relies on the findings of my ongoing research and six fieldwork trips to Honduras, El Salvador and Mexico conducted between 2015 and 2023. This included interviews with over 200 experts from government, international organisations and civil society, and formal and informal interviews with affected communities and individuals. New analysis deepens understanding about how organised criminal gangs drive displacement and about decision-making at initial mobility, the contexts in which people try to seek safety, and why internal displacement tends to be precarious and transient, with many people resorting to cross-border flight. This analysis frames the risk and violence that cause displacement within the concept of criminal governance (Lessing 2015, 2017, Moncada 2016, 2021, Barnes 2017, Albarracín and Barnes 2020, Trejo and Ley 2020, Feldmann and Luna 2022, Uribe et al. 2025), explains the rationale behind the disorganised, unpredictable and apparently random movements of people fleeing criminal violence or threats, and charts the connections between the internal and external dimensions of flight.

Internal displacement of individuals, families or entire communities within Honduras and El Salvador and migration out of the country are caused by a range of factors that can act as standalone, intersecting or contributory reasons for flight. These include widespread crime and violence with entrenched impunity, violence based on gender, sexual orientation or gender identity, militarisation, state violence and political repression, as well as poverty, inequality, food insecurity and the impact of climate change and natural disasters (Knox 2018, 2019a, 2019b, Bustos and Vélez-Echeverri 2023, Fromm 2023). Honduras appears to be more affected by displacement connected to megaprojects marked by corruption and criminality, with blurred lines between the various state and non-state actors and armed groups that perpetrate associated violence, harassment and assassinations (Knox 2019b, 2026, Phillips 2022).

According to experts I interviewed, most displacement provoked by organised crime in Honduras and El Salvador was the byproduct of criminal acts and targeted risk from the street gangs, known as *maras*. There are a broader range of criminal groups that cause violence and displacement in Honduras than in El Salvador, with a diverse range of smaller street gangs and criminal groups that are involved in drug trafficking. Experts I interviewed asserted that the *maras* were the only criminal groups provoking displacement in El Salvador, although there were other actors in both countries perpetrating violence that contributed to displacement, including hitmen known as *sicarios* (likely contracted via criminal groups), intimate partners, and state actors or their proxies. In both countries, state actions relating to gang violence were also causing displacement.

Cantor questioned to what extent the emerging situation was comparable to displacement caused by previous armed conflicts in Central America, noting that there were similarities in terms of the social control employed by criminal actors in the region, but differences in terms of opportunities for dialogue and political negotiations, further complicated by their swift recourse to killings (Cantor 2014: 66). The seemingly random and unpredictable movements and the clandestine nature of displacement add to these challenges for response.

The following section sets out the risk that people flee and the displacement strategies and dynamics that ensue, with analysis that frames this within the concept of criminal governance. It seeks to explain the disorganised movements that result by revealing the underlying logic behind people's decision-making. The section focuses solely on the role of *maras* in displacement, although criminal groups involved in drug trafficking do cause displacement in some rural areas of Honduras, albeit with complex links to the highest levels of state authority.

Criminal governance: framing the source of risk

Violence and the resulting displacement are intrinsically linked to all three dimensions of criminal governance: territorial control, social control and gang–state relations (Magaloni et al. 2020, Barnes 2017). This manifests as violence to seize, maintain control or defend control of territory from other criminal actors, confrontations with state forces, and violence and threats to maintain social control over the population within the territory and further protect against enforcement. By analysing the violence and displacement from the perspective of criminal governance (albeit, a body of theory that has developed since his studies), I further develop Cantor's argument that there are two main types of displacement linked to criminal groups: those caused by "periodic violent disputes" and those resulting from "everyday activities" (Cantor 2014: 44). Within this reading of criminal governance, three types of actor are set as potential adversaries: people whose actions could threaten the integrity of the gang's territory (territorial control); residents and others who refuse to comply with gang demands or respect gang authority (social control); and state security actors in confrontations, rather than allegiance (state–gang relations).

Territorial control generates violence that contributes to displacement through "periodic violent disputes" to defend, maintain or seize territory or in confrontations with state security forces, but also sets up several figures or groups as adversaries in the defence of this territory and the maintenance of gang control and authority over it. There is enmity towards

these state actors and rival gang members who are considered opponents in territorial control. In addition, people whose actions or interactions are perceived to present a risk to criminal governance are perceived as traitors or betrayers. These may be residents who are believed to be related to or interact with opponents in territorial control (rival gang members or the police), suspected or actual informants who breach the code of silence, young people who refuse forced recruitment, and those who work in violence prevention, justice or journalism.

Social control – governance over the population – generates violence in "everyday activities" (Cantor 2014) and is linked to how a *mara* sees itself "not as just controlling the territory, but also as controlling the people who live there, subjecting the inhabitants to its rules and control" (Weir 2022). Gangs demand loyalty, obedience and respect for their authority from all those living in areas they control. People must comply with gang rules, the code of silence (*ver, oír y caller* or 'see, hear and be silent') and any orders or demands issued – including orders to leave their territory. Within this context, violence and threats – whether explicit or implicit – are employed as contingent violence to force compliance with gang demands, codes and rules. Extreme violence is employed to punish those who do not comply, both as vengeance and to publicly reinforce gangs' authority. Gangs consider the bodies of women and girls to be part of their territory and dictate strict patriarchal heteronormative norms. Women and girls are targeted for forced relationships or sexual exploitation at all ages – including as very young teenagers – while boys and young men are targeted for forced recruitment into gangs. This is all done with threats, coercion or grooming and considered modern slavery and human trafficking (Knox 2018, Boerman and Golob 2020).

The state dimension of criminal governance generates violence, risk and displacement when there are confrontations and this extends to the civilian population, not just gang members. Raids by the security forces in specific urban areas targeted residents based on their demographic profile (generally young men living in marginalised communities) and included the indiscriminate use of violence and extrajudicial executions, particularly in El Salvador. During night-time raids in such marginalised neighbourhoods, armed police would knock on doors demanding information about local gangs. This terrified residents, who are bound by the gangs' code of silence but fearful of being targeted by state agents if they do not comply. These confrontations and repressive responses in urban areas led to gang members moving to previously unaffected rural areas, particularly in El Salvador in the mid-2010s following the breakdown of a truce with the authorities (Knox 2018). This shift of gang presence,

activity and violence to rural areas in turn led to people – including entire communities – fleeing these areas.

Triggers of flight: levels and immediacy of risk

People may flee generalised criminal violence or rising levels of insecurity in their local area, but there is a particular threat to those who have been individually targeted by gangs. This must be understood as a continuum of risk (Knox 2018) that affects flight decisions, the immediacy of flight, options for a place of safety and people's risk after displacement. In the context of an absence of appropriate state response and of citizens' fear of violent retribution if they approach the authorities, there are implications for protection needs and the dynamics of displacement that result. To understand how and why *maras* interpret people's actions and what this means in relation to gang control is critical to understanding the level and immediacy of risk, to whom this risk extends and the persistence of this risk over time. My conceptualisation of this within criminal governance assists in this and extends understanding beyond Cantor's (2014) definition of the grounds of displacement that are defined by acts understood to be enmity, betrayal and resistance.

Extreme risk derives from the territorial control dimension of gangs' criminal governance. Acts and actors are perceived as enmity or betrayal (see Cantor 2014) because they have the potential to threaten the integrity of a gang's territory. Those who attract enmity from the gang – people who are or are suspected of being from a rival gang or the security forces – are at greatest risk of extreme violence and murder, along with their partners and close family members who are at risk by association. Acts perceived by gangs as betrayal are usually punished with murder and, as mentioned, this risk can extend to partners and family members. Reporting a crime or cooperating with authorities – or being suspected of doing so – is perceived as an act of betrayal that violates the gang code of silence. Merely witnessing a gang crime puts people at risk. The infiltration of institutions and the corruption or coercion of police officers (a key component of state–gang relations) means that information about crime reports may be leaked to gangs. These factors result in a fear of approaching the authorities – particularly the police – and help to ensure people's silence. Refusing forced recruitment is also considered betrayal, with the threat of murder against those who refuse that extends to their families (Knox 2018, 2019a, Boerman and Golob 2020).

People living in areas controlled by gangs are subject to risk related to the social-control dimension of criminal governance. Targeting has a

degree of arbitrariness, in that it could happen to anyone because they live or work in a certain area or are attractive to gang members. Not complying with gangs' demands, an unwillingness or inability to pay extortion, or resisting the authority of a gang are considered acts of resistance and an affront to gang authority. As such, they carry severe consequences including actual or threatened violence and death threats to the individual concerned and their family. There is implicit risk in any demand – whether for extortion, collaboration or professional services (such as medical care or transport) – that starts as soon as someone is targeted. Threats and harassment often become explicit, although "the threat of violence is usually intended to secure payment rather than provoke displacement" (Cantor 2014). Resisting such demands – whether by unwillingness or inability – will incur death threats that could be realised at any point. Extreme violence is employed against those who do not comply, both as a punishment for violating the gang's social control and as a means of demonstrating and reasserting its authority to the broader community. Refusing forced sexual relations with gang members is considered an affront to their machoism, especially if women or girls refuse the demands of senior gang members, with the threat of extreme violence, sexual violence, torture and murder against those who refuse and their families (Knox 2018, 2019a, Boerman and Golob 2020).

Criminal groups also employ displacement as a deliberate strategy to secure property or land or to remove certain people from territory. Groups can order individuals, households or entire communities to flee with the use of death threats or actual violence. LGBT+ people, for instance, may be harassed or ordered to leave a gang's territory because they do not conform with patriarchal heteronormative norms demanded by gangs (Knox 2019b, Winton 2016, Amnesty International 2017). *Maras* in both El Salvador and Honduras expropriated strategically located houses for use as lookouts or places where they could store illicit goods, or just for themselves or their families to live. Street gangs in Honduras also expropriate properties to use as *casas locas* ('crazy houses'), where they conduct illicit activities, from drug taking to gang initiations to the sexual exploitation of girls. Experts I interviewed said that the police tended to be reluctant to intervene when people were at risk of being forced from their homes and described numerous recorded incidents. In El Salvador, police were known to attend the scene to supervise or assist people vacating their homes, rather than to prevent them from being forced to flee. Where displacement is employed as a strategy and is the required outcome, to flee is to comply with a gang's demands and resisting this demand would incur extreme risk and the realisation of death threats or violence.

Confrontations with security forces in gang-controlled and marginalised areas present risk to both individually targeted people and the broader population. Young men who lived in marginalised areas in both El Salvador and Honduras were forced to flee for fear of being targeted in organised raids because of their demographic profile. Members of the broader community would also flee because of anti-gang operations by the security forces, fearing both the state actors who demand compliance with requests for information about gangs and the criminal actors themselves who would seek violent retribution – including death – if community members were to cooperate with the authorities.

Fleeing risk: who flees, when and how

Depending on the situation and to whom risk extends, individuals who have been targeted may flee or the whole nuclear or extended family may leave – although older people tend to stay if possible. Risk of retribution often extends to people's partners and family groups if they are perceived to have committed an act of betrayal or enmity. The whole family is at risk if a child or young person is targeted for forced recruitment or sexual exploitation, and all will flee, sometimes separating into two groups, each with one parent. In other instances, such as avoiding extortion, it is just the individual targeted that may leave. Those who do remain may be harassed about their relative's whereabouts or face threats and violence related to this. Mass displacement also occurs, after orders for households to leave, rising levels of crime and violence or new incursions of criminal groups causing families, extended family groups and even entire communities to flee.

Displacement may be resorted to as a matter of urgency, with people fleeing as soon as a threat arises, if it poses serious and immediate risk, or when a risk level rises. For those who violate the gangs' code of silence, risk is immediate and extends to family members, and people who do report crimes often flee immediately. People flee at different points in the continuum of risk presented by such gang demands as extortion: some may leave in a less-hurried manner when they are targeted, some when they find themselves unable to make payments, and others may leave urgently if they receive explicit death threats or if a relative is killed for failing to comply with gang demands. Other people leave in a less-urgent manner because of community breakdown caused by the gradual emptying of neighbourhoods as people flee, rising levels of violence in the local area or economic issues caused by violence and criminal activity.

Initial flight is made in a discreet and clandestine manner to avoid raising suspicions, due to the risk of being noticed by criminal actors with

an adverse interest in those leaving. Experts described how people would leave without any belongings – perhaps with a small bag at most – or make it appear that they were going about their normal daily movements, such as going to work or collecting children from school, and just never return home. Others might leave at dawn, using a private vehicle rather than public transport to leave the area and taking carefully planned routes that avoid gang posts. The exception to this discreet movement is where displacement is employed as a deliberate strategy and people are ordered to flee. In such instances, people may leave in a visible manner because, in doing so, they are complying with gang demands. People who are displaced in this manner may not be obliged to resort to such strategies as leaving without coming to the attention of criminal actors during initial flight or living in hiding because of ongoing risk, although new risk could arise after displacement or if they approach the authorities, provoking further displacement.

Where people go to is often unpredictable. Experts described how, while earlier movement was intra-urban and inter-urban, by the late 2010s, people were moving all over the country, from urban to rural, rural to urban and rural to rural. People who flee are unable to relocate to any territory of the same gang, because they would be identified, and nor could they relocate to any area controlled by a rival gang, for risk of being suspected of enmity if they have lived in the other gang's territory. This significantly limits options for relocation, especially for those with few resources.

For some, the same risk that caused displacement may persist after flight, and may even increase, as fleeing is considered an affront to gang authority and social control. Risk does not necessarily diminish over time because of gangs' vengeful quest to punish those whose acts are considered an affront to gang authority and their ability to leverage their communication and surveillance networks to locate people of interest to them. This depends on how serious the gang in question perceives the infraction to have been. If gangs believe someone is guilty of betrayal or enmity, or they have another serious grievance, they may pursue that person relentlessly after they have fled. For those who have fled after reporting to the authorities, risk is heightened significantly if the report could or does lead to arrests or prosecution, especially of senior gang members. Gangs may not actively pursue people who have fled after a perceived act of resistance, but if they are detected via the surveillance and communication network, or enter another area under control of the same gang, then punishment for fleeing may be meted out or violence employed to force compliance with the gang's original demands – whether for money or cooperation.

Seeking safety: strategies in internal displacement

In the absence of effective state responses either to victims of organised crime or to internally displaced persons, people resort to a few distinct strategies when they have to move in search of safety. People with access to more economic resources may make different decisions, as they can use these resources to relocate to a more secure place inside the country, to leave the country by regular transport means and with documentation, or to avail themselves of the services of people-smugglers. Three distinct trends emerged from my research: a reliance on social capital to support relocation, sending at-risk children away to live with relatives, and resorting to self-containment.

Faced with the lack of state response and the need to move in a discreet manner, people tend to rely on social capital when they need to relocate – that is, the intangible assets of family and social relationships, networks and connections, and any resources derived through these (Bourdieu 1986). In the context of displacement and migration caused by violence and crime in El Salvador and Honduras, this goes beyond family links and networks of friends described by Cantor (2014), to also include networks of colleagues and members of civil society. People at risk may reach out to extended family and friends to receive them and assist with shelter, transport and money in internal displacement or to provide financial resources to facilitate their external migration. Those who are obliged to flee because of an innate characteristic (for example, their sexuality or gender identity) or their work (such as journalists, activists and trade unionists) may reach out to specialist support networks, which are often informal and operate beneath the radar, that provide safe houses and transport in the country or information and assistance to leave the country. The availability of social capital and networks, and their willingness or capacity to assist, can define the available – or limited – options for people in internal displacement and can affect its outcomes (Cantor 2014). Further to this, in the context of ongoing risk and the danger of being targeted by criminal actors by association, some people may not feel able to shelter a friend or relative of adverse interest to a gang.

Another risk-management strategy is sending adolescents and children who are at risk from gangs away from the parents or family they normally reside with to live with relatives in other parts of the country. This is done to protect them from persecution and threats from gangs or forced recruitment and appears to be a pre-emptive move when risk levels rise as well as to avoid imminent risk. This is somewhat different from the urgent flight that may include the family unit when a child or adolescent

refuses forced recruitment or forced sexual relationships with gang members, when risk is higher.

Self-containment is a term I coined (Knox 2018, 2019a) to define a protection strategy (*autoencarcelización* or 'self-imprisonment') described to me by professionals working on the ground with displaced persons and at-risk young people in both Honduras and El Salvador. It describes how people resort to living in hiding due to persecution by gangs and the lack of effective state protection. People are obliged to confine themselves to a room or house for their own safety. They may resort to this strategy before or after internal displacement, or if they have been returned to their country despite ongoing risk. Young people or whole families may resort to living in this way if risk is high, if internal displacement does not bring security or if they need to live under the radar or discreetly in displacement because they have not been able to reach an area free of the gang's influence. Some people may leave the house only for essential purposes, such as securing documentation or tickets to leave the country.

Displacement dynamics: ostensibly random, fundamentally precarious

Displacement caused by criminal violence and threats in El Salvador and Honduras is marked by precarity, multiple transitory movements and a strong cross-border aspect. Flight from organised crime does not appear to be a linear process, either in terms of where people go generally or their individual journeys, which can involve multiple moves within their country and across borders. Decision-making at point of initial mobility and throughout the migration journey results in disorganised displacement with unpredictable trajectories and ostensibly random patterns of movement and changes. These seemingly random movements were documented by experts in the late 2010s, who described people moving all over the country from one place to another with no apparent pattern or logic.

Displacement tends to be precarious and could fail at any moment. This precarity derives both from ongoing risk after displacement and on the reliance on social capital in displacement. People fleeing violence, persecution and threats from *maras* face significant difficulties in finding genuine and lasting safety through internal displacement. People living in poverty and those without a network of social capital away from gang-affected areas will have fewer options for internal displacement and so poorer outcomes. Moreover, given the lack of effective state response, the small size of the countries and the sphere of influence that *maras* have across the countries, risk can persist after displacement. Gangs can leverage their communication and surveillance networks to locate and

harm people after they have fled, meaning that displacement can fail as a protection strategy at any point. In addition, new risk can arise after displacement if people are only able to relocate in marginalised areas or resort to negative coping strategies or unsafe work in displacement. The failure to provide protection or effective state responses results in internal displacement that is insecure, unsustainable and often abandoned for secondary internal displacement or cross-border flight.

Insecurity and unsustainability provoke secondary displacement, often resulting in people making multiple transitory movements. This happens because of a lack of safety and security and because of the reliance on social capital to support them in displacement. Experts working on the ground in both El Salvador and Honduras described how people moved from place to place in search of safety, going where they have family links and staying a short time – sometimes even just one night – and then moving again when they are unable to find security, economic sustainability, or friends and family who are able and willing to receive and shelter them. This disorganised movement – marked by atomisation, precarity and multiple transient moves – appears to be one of the most defining patterns of displacement, given the absence of state protection and resources.

This also results in a strong cross-border aspect to flight, with more people fleeing across borders by the end of the 2010s than previously. Experts I interviewed explained that internal displacement was not always a viable option or a successful protection strategy for many people because of ongoing risk from gangs and a lack of access to effective state protection. Some people flee the country if internal displacement fails and they are unable to find safety. Others flee across borders without attempting to move internally, because they know that they would be unable to find security and state protection in-country and that risk from their persecutors would persist, given their wide sphere of influence. Others have been advised to leave the country after approaching the authorities, by officials who do not believe the state can provide effective protection. For many, cross-border flight is made by irregular means, but those with access to economic resources may be able to secure the documentation and plane tickets needed to leave in a regular manner or to facilitate journeys to the USA with people-smugglers, and they may use a brief period in internal displacement to make these arrangements.

Decision-making underpinned by the same logic

This disorganised movement presents challenges for response, because movements are ostensibly random and unpredictable. However, analysis can define the nature of these contexts to better explain decision-making

and movements in a more policy-relevant manner. This shows how these disorganised movements are all underpinned by the same logic, with decisions considering the same factors and agency being exercised within the same constraints – especially for those with access to limited economic resources.

Within the context of flight from gang violence, a place of safety is highly subjective. This indicates a conceptual difference from situations of natural disasters and some conflict scenarios, where there may be an objective place of safety for all or some people. Just as we can understand areas where criminal governance and gang violence occur as being distinguished by their characteristics – as places of social exclusion and an absence of effective state presence – rather than as specific geographical locations, likewise we can understand these places of safety by the factors that people consider when making decisions about displacement. There are structural factors that restrict options for a safe place for all people and these include gangs' sphere of influence and communication networks, and the lack of state protection and effective response to violence, victims or internally displaced persons. A place of safety in this specific context is based on highly individualised factors. It is dependent on the nature and source of risk or targeted persecution as well as on the options available to each person or family, based on their social capital and economic resources.

What might be a safe place for one person or family, may not be so for another, as this depends on highly individualised factors – such as what options are available and the precise reasons someone is fleeing. An available place where someone has social capital may not be safe and viable because the gang's sphere of influence easily reaches there. Likewise, it may not be viable because friends and family are fearful of receiving people who are fleeing from gangs because of the risk of association or indeed because they cannot afford to. While this presents challenges for all people fleeing rising levels of violence or risk, there are much greater challenges and limitations for people fleeing individual persecution and targeted threats or violence. This is particularly acute for those perceived to have committed an act of betrayal, for whom risk – including the risk of being actively pursued – will persist after flight.

The failure of both El Salvador and Honduras to provide a response is comprised of three strands. A failure to provide an adequate and effective response to violence enables it to provoke displacement, a failure to provide an adequate and effective response to victims generates insecurity and vulnerability, and a failure to provide an effective response to internal displacement causes a reliance on social capital. The urgent, discreet and immediate nature of initial mobility and movement can thus be traced to the lack of state response to victims and violence. The precarity,

transience and unsustainability of internal displacement is manufactured by the lack of state response to internally displaced persons. These factors are heightened by risk that may continue after displacement, as well as new manifestations of risk that may arise due to a lack of state response to internal displacement. The intersection of these failures in state response causes the strong cross-border aspect of displacement in El Salvador and Honduras, including both the abandonment or failure of internal displacement and the decision not to attempt it and to flee across borders instead.

All of these factors are further aggravated by entrenched impunity and the reluctance of affected people to approach the authorities to seek protection after being the victim of a crime or for potential support in displacement. These structural factors are deeply linked to the choice by people to abandon internal displacement in favour of external migration. As a result, internal displacement has become a transit stage – or part of the transit trajectory – for many people.

Why people leave their country because of criminal violence and persecution by organised criminal groups

People in El Salvador, Guatemala and Honduras may resort to internal displacement because of organised crime and violence, although, as we have seen, some abandon this in favour of external migration (Kennedy 2014, UNHCR 2014a, 2015, Cantor 2014, Cantor and Serna 2016, CIPPDV 2015, Refugees International 2015, La Mesa 2016, Knox 2018, 2019a). This section analyses the decision-making of people I interviewed at the *Albergue 'Hermanos en el Camino'* in Ciudad Ixtepec, Oax., Mexico (the *Albergue*) and Salvadorans who had been deported from Mexico at the *Centro de Atención a Repatriados* (Returns Centre) in Santa Tecla, El Salvador. Fifty-seven per cent of interviewees said that they had left their country because of criminal violence and threats. The data gathered in these interviews reveal the broader range of factors that people considered in their decisions to leave their country and during their migration journey.

Over one-third of the people interviewed at the *Albergue* and the Returns Centre said that they had moved to another place in their country prior to deciding to leave their country. Of the twenty-eight people who expressed reasons for migrating that indicated potential international protection needs, nearly two-thirds had relocated internally prior to leaving. This group's reasons for displacement were almost exclusively

related to gangs and criminal violence, including fleeing death threats and escaping forced recruitment. Additionally, one person was fleeing state actors and one woman left after an ineffective state response to domestic violence.

Several people expressed that it had been a hard decision to leave their country, in particular when they had to leave close family and other ties, such as their house and business. A young Salvadoran man described how "I had to abandon my home, my country because of this". People used language such as 'abandon' to describe their external displacement and explained that they had been able to tolerate difficult situations until a certain point or a violent event that meant that external flight became their only option. A trans woman from El Salvador explained the distress this caused her:

> I left everything there and am claiming asylum because I cannot return to my country. As soon as the gang takes you as a target, they will harass you. I had my own house in El Salvador, and a decent job. It is so hard to abandon everything. I didn't *want* to do this. There was a time when I could put aside the discrimination to be with my mother and sisters. But not now – *this is different*.

The interviews' narratives reveal some of the nuance in the reasoning behind some external migrations, as well as the urgency and necessity of others, and give a clear picture of why internal flight may not be a viable option. Examining how incidents and threats of violence are related to this mobility and what other factors are considered in decisions enables better understanding of what prompts people to try to move internally, to abandon their internal displacement in favour of external flight, or to immediately leave their country with no recourse to internal displacement.

Factors that contribute to external flight

Of the fifty-eight respondents, thirty-three expressed reasons for leaving their country linked to organised crime and violence, the majority having fled direct threats or persecution by these gangs. Often people expressed compound reasons for leaving their country, citing fleeing generalised violence and fear of being killed, together with poverty and lack of opportunities. However, those who had left their country because of immediate risk to their life tended to give multiple reasons that were all connected to criminal violence. Of those whose given reasons for leaving their country indicated potential international protection needs – and in particular those who had fled with their life in immediate danger or after

a violent attack or attempted murder – all had either fled internally but were unable to find safety or had not considered internal flight to be a viable option. Those who had not attempted to relocate internally before external flight said that it was futile to try to move in-country, that their whole country was dangerous and that the risks to them would be the same or higher if they moved within their country.

DIFFERENT LEVELS OF RISK, DIFFERENT PATTERNS OF MOBILITY

Respondents appeared to have slightly different levels of risk, and this depended on both the types of threat they had escaped and the point at which they had fled. Twenty-five per cent had received threats that they would be killed if they refused to join a gang, 30% had received death threats based on specific things they had or hadn't done, and 15% had been the victim of violence or attempted murder perpetrated by gangs. Thirty per cent reported no specific event that had prompted their internal move. Instead, they were driven by a desire to avoid insecurity and to try to find a safer place to live away from the gangs.

To differentiate between the levels of threat posed to the individuals, I classify these as *immediate*, *imminent* and *impending* levels of risk. Events that posed immediate risk include attempted murder, serious physical assault, death threats with an order to leave the area within a certain time, and a failure or refusal to do something that would incur this same risk, such as missing three extortion payments or refusing to join a gang. Events that posed an imminent threat include the start of gang demands with actual or implicit threats if a person were to refuse or fail to comply – for example, receiving extortion demands or being told they would be killed if they refused to join a gang. Other people were fleeing impending risk that included the fear of extortion or other demands from gangs, a deteriorating local security situation or the general risk of violence without any personal persecution.

All these levels of risk were driving both internal and external flight. Credible death threats or attempted murder drove *emergency* flight to escape this *immediate* risk. In the case of several interviewees who had experienced a violent attack or attempted murder after receiving death threats, the immediate level of risk was clear and acted as a standalone factor to prompt their flight: people were fleeing for their lives. One 16-year-old Salvadoran, who was travelling with his father, had been shot in the stomach by B-18 "just for living in a particular neighbourhood". He said that prior to leaving the country he moved temporarily to a different house nearby but, although he could have moved to another town, he could not escape the gang's reach. Similarly, a Guatemalan bus driver who had been shot in the chest after failing to pay extortion for the third

time said that as soon as he left hospital, he left the country. People also left their country in an *evasive* move to avoid the *imminent* risk of reprisals and violence. A young Guatemalan man told me: "The gangs want me to work with them. My family says that it is not safe for me to be there." Some people made a *pre-emptive* move to avoid *impending* risk – a markedly different type of mobility from that of those fleeing more pressing threats to their lives and personal security. For instance, a Honduran bus driver indicated that having to pay extortion or be killed was making life unbearable and this had prompted his move. Nonetheless, all these levels of risk were driving external migration.

These different levels of risk can be neatly explained by the circumstances of those fleeing extortion. Respondents who were fleeing extortion fell into three distinct groups: those who had already missed some payments, those whose economic circumstances meant they were now unable to pay, and those who did not want to start or continue to pay extortion money. Missing three extortion payments can result in credible death threats or attempted murder and this drives emergency flight to escape this immediate risk. People who were no longer able to pay extortion left their country in an evasive move to avoid the imminent risk of reprisals and violence. Other people made a pre-emptive move to avoid starting or continuing to pay extortion because of the impending risk of being unable to pay. A Salvadoran woman had closed her business following extortion demands and fled with her husband and young child rather than start paying extortion because of the life-long danger that starting to pay would put them in. It is clear that the same criminal activity can pose different levels of risk at different points in its lifecycle and, while arguably posing similar levels of longer-term insecurity, these risk levels can provoke different patterns of mobility.

My data also suggest that certain groups tend to be differently affected by distinct aspects of gang and criminal activity. The heightened vulnerability of specific groups to certain gang-related activities reflected the recent shift in the demographic profile of people leaving Northern Central America that was recorded by institutions and academics. While death threats affected men of all ages from 16 to 50, the majority of those who were fleeing forced recruitment or involvement in gang activities were in their teens and early twenties, and those fleeing extortion were all in their mid-twenties and included a family group. While this suggests that certain activities adversely affect certain demographic groups reflecting increasing economic means as people get older, it could also indicate that some groups are less tolerant of the same level of risk, resulting in different patterns of mobility. For instance, family groups may move pre-emptively when faced with lower levels of risk from extortion.

WHY INTERNAL DISPLACEMENT MAY NOT BE VIABLE

The broader situation of insecurity in Northern Central America means that internal displacement is not a viable option for many people who are at risk. The failure of states to provide protection or resettlement results in internal displacement that is precarious and often unsuccessful, and the absence of effective state presence has enabled non-state actors to usurp territorial control and act with impunity throughout the region.

People from all three countries who had attempted to move within their country prior to leaving said that they had experienced the same problems and insecurity after their internal displacement and that this had resulted in their subsequent external migration. Many people reiterated that they were not able to escape the persecution or find safety. One 20-year-old Salvadoran man, who had fled after attempting to relocate internally, explained: "The danger persisted, so I left and came here." Several people who had fled death threats explained the futility of internal flight options, with a father and son from El Salvador commenting: "There's no point – it's the same everywhere, and they know where you go. Better to leave the country." Internal displacement is often not adequate to escape risk and threats, because of the reach of criminal groups and their communication networks throughout countries and the entire region, including Mexico.[6] The data gathered demonstrate that this acts very strongly as a disincentive to attempt internal displacement and as a reason for internal displacement to fail and be abandoned in favour of external migration.

Internal displacement within one's country can also increase the risk to an individual. If someone relocates from a gang-controlled neighbourhood or *colonia* to one controlled by a rival gang, they will be at serious risk, even if they have no gang affiliation themselves. Such a move can make them a target of the rival gang as well as the gang from whose territory they have moved. Similarly, if a person moves to an area that is neutral, but that requires them to cross either gang's territory to visit relatives or go to work, their risk is heightened. A 27-year-old Salvadoran man explained: "I moved from one *colonia* to another, and going to visit my mother meant I had to return to it. I couldn't just move – there were gangs, threats, the same – especially because I moved."

Although social capital can support the practicalities and outcome of internal displacement, no respondents highlighted a lack of social capital as a barrier to successful internal flight, mentioning only security issues and ineffective state presence. However, two-thirds of those who had fled criminal violence said family connections or friends had determined their external flight destination, but this was not the reason for leaving their country.[7]

Personal experience of threats or violence and the decision to migrate

Large numbers of people have fled – and continue to flee – Northern Central America because of criminal violence and insecurity. Many of these have been the victim of a gang-related crime. Analysis is needed to determine the degree to which acts of violence and threats against an individual influence their decision-making, and particularly the decision to leave their country. This section analyses the narratives of those people who left their country to flee criminal violence, in order to understand what prompted their migration and how specific events and contextual factors are considered in their decisions. It reveals what prompts people to try to move internally, to abandon their internal displacement in favour of external migration or to immediately leave their country.

Of the fifty-eight people interviewed at the *Albergue* and the Returns Centre, more than a third said that they had moved to another place within their country prior to deciding to leave their country, because of the same reasons that caused them to leave their country. Of the twenty-eight people who expressed reasons for migrating that included fleeing criminal violence and individual persecution by gangs, such as death threats or forced recruitment, the proportion was significantly higher: two-thirds had resorted to internal displacement before leaving the country. All the people interviewed had migrated externally, so it can be concluded that any internal flight had been in some way unsuccessful or had not been attempted.

INTERNAL DISPLACEMENT ABANDONED IN FAVOUR OF EXTERNAL MIGRATION

Examining the narratives of those who had abandoned internal displacement in favour of external migration provides insight into the reasoning around the decision to abandon the internal move and leave one's country. All respondents who had attempted internal flight said they had been unable to find a place of safety within their country either due to the gangs' strong communication networks or because of widespread problems of insecurity and ineffective state presence. Of the twelve people who elaborated on the failure of their internal displacement, responses were split equally between these two situations. There was, however, a significant difference in the responses of people whose lives were at immediate risk due to specific threats and actual attacks and of those whose lives were in imminent danger due to potential threats.

All but one of those at immediate risk reported more threats and personal insecurity after internal flight due to the communication networks

of the gangs. People from Honduras, Guatemala and El Salvador made similar comments: "They all communicate and watch people, so I wasn't safe there either"; "It's the same everywhere, and they know where you go. Better to leave the country"; "I could move to another town, but I can't escape them"; "They still knew where I was, and I received more threats and had to leave". This group also described the urgency of their external flight following the failure of internal flight: "I just had one day to get out"; "My mother told me to go immediately"; "I found a body bag in my bed. So, the same day I took off from my house and started to walk through Guatemala to Mexico".

Those at imminent risk also expressed the futility of internal flight: "I can't do anything about the groups. I can only leave the country"; "The danger persisted, so I left and came here"; "I couldn't just move – there were gangs, threats, the same"; "There's no point – it's the same everywhere". Their decisions to leave their countries appeared to be made exclusively because of the danger they ran in their country of origin, their level of risk and the failure of the state to protect them. Indeed, these situations indicate two significant state failings: a lack of state control that resulted in the pervasive presence and territorial control of gangs, and the absence of effective state responses to victims and incidences of violence and of protection for people who must resort to internal displacement.

NO INTERNAL DISPLACEMENT BEFORE EXTERNAL MIGRATION

There were some people who fled their country because of immediate or imminent risk of criminal violence with no recourse to internal flight. More than half of those who fled El Salvador had not resorted to internal displacement. Most of these people gave secondary reasons for leaving their country that were also linked to criminal violence, and fewer than half had a specific destination in mind when they left. Of the seven people in this group, three had fled after incidents of violence perpetrated by gangs – two after attempted murders and one after a serious physical assault. Three others had received death threats after failing to pay extortion and a Honduran man was removing his stepson from forced recruitment to a gang.

With the exception of this Honduran man, all respondents reported events that indicated immediate risk. This is reflected in the immediacy of their flight in contrast to his less-hurried decision-making. He related that he had spent two months trying to decide whether internal location would be possible, before deciding to move his stepson externally. People from all three countries described the immediacy and secrecy of their flight: "I just got dressed and left"; "I had to leave in the night"; "As soon as I left hospital, I left the country". Their reasoning for not attempting

internal flight echoed the sentiments of futility expressed by those who had abandoned their internal displacement.

All respondents articulated how the pervasiveness of gangs throughout their country was the main factor that precluded an internal move: "These people are all over the country. I risk danger wherever I go in El Salvador"; "Can't move to another neighbourhood, as they will kill you. Pay the *renta* or they will kill you. So, you have to leave"; "I wanted to go to another town, but they would look for me in Honduras and find me, so better to leave"; "The whole country is affected, so there's no point"; "I think if you try to flee in your own country, they will find you". Some also commented specifically on the absence of effective state protection, with a young Guatemalan man explaining that "The police are powerless as they can't go into the territories controlled by gangs".

PRE-EMPTIVE EXTERNAL MIGRATION

Some people said that a more generalised threat of criminal violence prompted their pre-emptive external flight. These people had not experienced actual or threatened violence and did not attempt internal displacement before leaving their country, but made a pre-emptive move to avoid impending risk due to extortion demands or because of a deteriorating local security situation. One Salvadoran family had fled before starting to pay extortion, with the mother explaining: "I couldn't pay because, if you pay once, you have to pay forever – or end up face-down". Overall, their reason for external migration was the lack of adequate state protection in their country of origin: "We had to move out of the country because it's so dangerous"; "As long as I don't ever return to my country, it doesn't matter". Many cited compound reasons for migration, including secondary reasons not directly connected to criminal violence, and half had social capital in their intended destination – although this appeared to determine their destination rather than influence their decision to leave their countries.

NEW UNDERSTANDING ABOUT HOW CRIMINAL VIOLENCE CAUSES EXTERNAL FLIGHT

My data indicate that incidents that resulted in immediate, imminent or impending risk were the catalyst to leave one's home, but structural factors – namely the lack of state protection in the country of origin – drove external migration. These incidents varied in the level of risk they presented to individuals, with the most severe levels of risk resulting in emergency flight. Internal flight either failed or was not attempted prior to external flight because of the pervasive reach of criminal gangs throughout the region, gangs' communications networks and the absence

of state protection. For those in immediate risk, moving internally did not diminish that risk and in some cases increased it. Decisions to migrate externally were made exclusively because of the danger faced in the country of origin, the violent incident or threat, and the failure of the state to protect them in their own country. People made decisions about flight when they were at different levels of risk and this produced different types of mobility, affecting both the speed of flight and the external dimension of mobility. Analysis of decision-making additionally reveals more nuance in initial mobility than is conceived in Kunz's (1973) kinetic theory: emergency, evasive and pre-emptive flight, rather than anticipatory and acute.

Established push and pull factors may have continued to drive regional migration, but these factors had little weight in the decision to leave one's country because of criminal violence and persecution, although social capital may determine destination. Likewise, migration controls have little bearing on decision-making when push factors are so overwhelming and flight so urgent, and agency is exercised in spite of these structural factors. External flight is being driven by a powerful trio of structural factors: the pervasive presence of organised criminal groups throughout the countries of origin, a weak rule of law with entrenched impunity, and the absence of effective state responses to violence, victims and internally displaced persons.

Agency and decision-making in displacement caused by criminal violence

Since 2013, tens of thousands of people have left their homes in Northern Central America because of criminal violence and persecution by organised crime. The increase in the number of people fleeing was accompanied by a shift in the demographic composition of flows – more women, unaccompanied minors and entire families were leaving. Internal displacement tends to be atomised, precarious and transitory with ostensibly random movements, although the underlying decision-making behind these different movements follows the same logic, with agency exercised within the same structural constraints. Without either effective state protection or viable options for internal flight, people flee across international borders and the majority of these become part of the mixed migration flow in transit in Mexico.

My analysis develops understanding about how organised crime and violence in El Salvador, Guatemala and Honduras are driving internal displacement and external migration from the region. This agency-orientated

perspective and analysis of decision-making builds on Cantor's (2014, 2016b) conceptualisation of the nature of displacement being driven by the type of organised criminal groups involved and caused either by 'everyday activities' or 'periodic violent disputes', and how displacement dynamics are shaped by how gangs perceive infractions. My analysis locates this violence and displacement in criminal governance, explaining how this derives from the different components of criminal governance: territorial control, social control and state–crime relations. It reveals nuance behind the decision-making that informs its internal or external dimension, and shapes its trajectory, from initial mobility through transit. My analysis showed how those obliged to resort to displacement respond to "economic, social and political pressures over which they have little control, but exercise a limited degree of choice in the selection of destinations and the timing of their movements" (Richmond 1988: 21). By centring the approach in decision-making, and looking at contextual factors in relation to this, rather than vice versa, we see how agency is not lessened or increased by circumstance but is exercised within the given circumstances that may either expand or restrict options (Van Hear 1998).

Analysis of my data from interviewing people at the *Albergue* showed that those whose given reasons for leaving their country indicated potential international protection needs were more likely to have moved internally prior to migrating externally. Narrative analysis allowed some nuance to be given to the decision to abandon internal displacement in favour of external migration or not to consider internal displacement. The overriding reasons given in both cases were that safety could not be achieved through an internal move, given the absence of state protection and the gangs' sphere of influence throughout the individual countries and the whole region. While either an internal or external move was taken urgently when people were at immediate or imminent risk, other people had decided to migrate externally before their risk levels became so extreme. This adds further depth to existing region-specific analysis (Cantor 2014, 2016a, Cantor and Serna 2016, Refugees International 2015, UNHCR 2014a, 2015, La Mesa 2016) that noted that displacement often occurs after an event or threat of violence, but also connects the internal and external dimensions of flight.

Analysing decisions about initial mobility and the viability of available flight options makes it possible to better connect the internal and external dimensions of displacement (Van Hear et al. 2009) and analyse them in a more integrated manner, conceptualising internal displacement as a potential first stage in the transit journey. In doing so, new understanding is developed about the empirical situation, the region-specific links

between internal displacement and external migration (Cantor 2014), and the circumstances in which internal flight caused by criminal violence in Northern Central America is abandoned or not attempted in favour of cross-border flight.

Some people had to make quick initial decisions and an emergency – or acute – move after a violent incident or sudden increase in risk level, but other people were able to consider more options and make a pre-emptive – or anticipatory – move. These different levels of risk produce different types of mobility, and this finding builds on broader theory. In Kunz's (1973) kinetic model, people may be more likely to take anticipatory flight because they perceive risk earlier, because they are less tolerant of risk or because the level of risk has itself risen, and this may be affected also by socio-economic circumstances and demographic factors. My analysis adds further detail to the nature of people's flight: people make emergency flight from immediate risk (acute flight, either internal displacement or external migration) and people move pre-emptively because of impending risk (anticipatory flight), but there were also people fleeing imminent risk in an evasive move (falling somewhere between acute and anticipatory). This additional nuance of initial mobility is not necessarily accommodated by Kunz's model, although it fits in the continuum he proposed.

By putting migrants' decision-making at the centre of the analysis, it is clear that "most migrants make their decision to migrate in response to a complex set of external constraints and predisposing events [that . . .] vary in their salience, significance and impact, but there are elements of both compulsion and choice" (Turton 2003: 8–9). This also allows us to see all decision-making within their broader migration journey. Linking decision-making through the migration journey – from initial mobility, through internal versus external flight, to the transit portion – generates new understanding about how decision-making affects the mobility of those fleeing criminal violence and how the factors that drove initial mobility continue to influence their decisions during transit.

Unsuccessful internal relocations should therefore be viewed not just as precursors to the external or transit portion of migration, but as part of the migration journey that starts when someone decides that they have to flee their home to protect themselves. This approach goes some way to resolving some of the dilemmas about how to connect the internal and external dimensions of migration in a non-conflationary way (Van Hear et al. 2009, Cantor 2014). This also allows us to see all decision-making as part of their broader migration journey and to analyse decisions taken at initial mobility together with those taken during transit, as is further explored in Chapter 2.

Notes

1. *Presidential Memorandum—Response to the Influx of Unaccompanied Alien Children Across the Southwest Border*, 2 June 2014. Washington DC: The White House.

2. Other externalisation instruments in the region at time of fieldwork include:

   - The (now suspended) Central American Minors in-country refugee/parole processing scheme.
   - Policy and practice preventing families and minors from leaving Honduras since June 2014. For example, under-21s must have signed parental consent and a passport to leave the country, and US-assisted special units stop vehicles near border crossings between Honduras and Guatemala and demand papers from people with children.
   - The US-funded media campaigns in Honduras, "Danger Awareness" and "Know the Facts".
   - The increasing securitisation of country borders, despite the previously open borders between CA-4 countries (Guatemala, Honduras, El Salvador and Nicaragua).

3. These activities were subsequently absorbed into other lines of action of the *Instituto Nacional de Migración* (INM), Mexico's migration authorities, and continue in that form today. Additional restrictive migration policies were implemented by the incoming US administration in 2017 and since then. The impact of these is reflected on in the final chapter of this book.

4. The government's harsh crackdown on gangs from April 2022 dramatically reduced rates of recorded homicide and improve the security situation for citizens in El Salvador, albeit with ongoing states of emergency and measures that do not comply with international human rights norms. All analysis in this book refers to the situation before this crackdown.

5. This analysis pre-dates the 2022 government crackdown on gangs in El Salvador. This section is based on my empirical research, which was not conducted in Guatemala, although many similar dynamics play out there and the findings and analysis have relevance for the situation there.

6. Those who flee the gangs may not be safe when they leave the country, as the tentacles of Central American *maras* reach into Mexico and beyond, meaning they can trace and pursue people abroad as well as within their country. This was demonstrated by an incident while I was at the *Albergue*. Seven young men arrived one afternoon, having fled gangs in El Salvador. Late that evening, three members of the *mara* they were fleeing – including one leader – arrived in pursuit. Although the gang members were denied entry by the police guards at the *Albergue*, the young men were so terrified that they fled the following dawn.

7. As well as any demographic bias that my sample group may present, the exclusion of those using people-smuggling services raises two issues in terms of contextualising the decision-making of my sample group within the broader flow of people leaving Central America. Firstly, people who use people-smuggling services may have family members in the USA or elsewhere who help facilitate their journey through financing the whole or part of the journey, therefore determining their destination and acting as a strong pull factor. Secondly, because people who use people-smugglers have more financial and social resources to organise and plan their journey in advance, they could be more inclined to make a pre-emptive move away from impending risk (see Ramos 2015). Therefore, the decisions about when to leave their country and where to go may differ for those in the broader flow (which would include those using people-smugglers) compared to those in my sample group, who may not have had such resources.

Chapter 2

Transit and trajectory through Mexico: navigating risk and finding protection

When people flee across international borders because of persecution by criminal groups, they are not necessarily safe from criminal violence, aware that they can seek protection or inclined to do so. Flight from organised crime does not appear to be a linear process, either in-country or abroad, and people's decisions about destinations and regularisation options are taken throughout the mobility journey. This mobility happens because of structural factors in their country of origin (see Chapter 1) and in spite of structural factors in the countries of transit and destination – namely restrictive migration controls and the pervasive presence of organised crime groups that target migrants. This chapter examines the ways in which people navigate risk during the journey, the factors that impede or facilitate their access to appropriate protection, and how unanticipated opportunities to claim asylum or regularise their migration status that arise during the intended transit portion of migration may or may not affect their trajectory. Using the data gathered in my 2015 fieldwork, it first analyses how information about the right to seek asylum that people receive during transit is balanced with other factors about their migratory journey and their subsequent decision on whether to claim asylum in Mexico. It then examines how prior knowledge about risk from violence from organised criminal groups and other actors or actual violence during transit might influence their trajectory or offer an unanticipated opportunity to regularise their migration status in Mexico.

Locating decisions in transit migration

The transit portion of migration is both shaped by and shapes migrant agency and decision-making (Collyer and De Haas 2010, Collyer et al. 2010, Hess 2010, Düvell 2006, 2008, 2010, de Haas 2008, 2011, Dimitriadi 2016). During the entire migration journey, decisions are constantly being made, and the factors that constrain or enable migrants' agency are as changeable as the trajectory itself (Düvell 2008). These decisions shape the temporal and geographical trajectory of transit, with migrants' constantly responding to obstacles and opportunities, yet limited by structural factors such as migration controls, social capital, and access to resources and operators to facilitate their journey. As a result, the notion of transit accommodates elements of both structure and agency, and "allows them to hold equal ground and significance with the sovereign state in understanding how migration evolves" (Dimitriadi 2016: 44). Just as agency and decision-making provoke initial mobility (Kunz 1973, 1981, Richmond 1988, 1993), so they shape transit migration and define the migration journey and trajectory (Van Hear 1998, Van Hear et al. 2009, Düvell 2008, 2010, De Haas 2011, Dimitriadi 2016).

More broadly, transit migration is not a linear process and is subject to changeability and "[i]nitial plans can be strongly influenced, changed and re-defined at different phases all along the trajectory" (Castagnone 2011: 3). People change their minds, destinations and trajectories during transit, "crossing through geographical sites that function as steps along the way, often stopping for unknown lengths of time due to various personal and/or structural factors" (Dimitriadi 2016: 340). Migrants constantly respond to emerging situations, opportunities and obstacles throughout the migration journey, thus shaping its geographical and temporal trajectory (Papadopoulou-Kourkoula 2008, Castagnone 2011, Düvell 2010, Basok et al. 2015, Dimitriadi 2016).

Region-specific studies have started to explore the factors that influence the decisions of Central American migrants in Mexico and shape their migration trajectories (Arriola Vega 2020, Basok et al. 2015, Knox 2017). These trajectories are complex, non-linear and dynamic, and affected by immobility or mobility, intense precarity and potential humanitarian support (Arriola Vega 2020, Basok et al. 2015). Exploring attitudes and decision-making in these liminal transit spaces has advanced from addressing these primarily as spaces of spatial liminality – the transit state through which one must pass (Coutin 2005, Vogt 2013, Brigden 2015) – to considering the concept of temporal liminality as well: a period of limbo (Arriola Vega and Martínez 2020, Brigden and Mainwaring 2016).

People's trajectories in Mexico are marked by protracted mobility and immobility and are shaped both by exogenous factors – notably delays of unknown length, as asylum seekers navigate protracted administrative processes – and by decision-making in response to circumstances (Arriola Vega and Martínez 2020, Brigden and Mainwaring 2016, Danze 2023). Within this context, migrant shelters in Mexico play a role in shaping and influencing migrants' trajectories through the services, information and assistance they provide (Cándiz and Bélanger 2018). New analysis has further examined how humanitarianism and encouragement to claim asylum in southern Mexico can be framed as "bordering practices", how these are understood and responded to by migrants, and how they exercise agency within these constraints, leveraging protection and regularisation of their migratory status as tools to enable transit through Mexico rather than to remain (Cándiz and Basok 2024).

"I never knew we had a right to be safe": the right to seek international protection as an influence on migration trajectory

Just as setbacks and opportunities can influence people's decisions and shape their trajectories while they are in transit, so too can information they receive during their journey. Despite widespread acknowledgement that transit migration involves mixed flows, there appeared to be little focus on the receipt of information on international protection as a factor in decision-making during transit. My research shows that receiving information on the right to apply for asylum was a decisive factor in leading some people to change their planned destination and remain in Mexico.

Central Americans moving through Mexico may receive varying amounts of information about rights – including the right to apply for asylum – at the migrant shelters en route. All people interviewed at the *Albergue* had been informed of this right during their registration interview when they arrived. To understand more precisely how receiving this information affects the migration trajectory, we need to locate this within the context of the broader factors that influence individuals' intended destination. We must also consider how people's decision-making around whether or not to apply for asylum is influenced by the information they acquire on the alternative options for regularisation of their migratory status in Mexico and on the practicalities of applying for a humanitarian visa compared to applying for asylum.

Factors that contribute to determining destination or making asylum claims

The majority of factors in determining destination were related to the cultural, social or practical factors that influence migration patterns in the broader sense. Some of these were related to the pull factors that influence regional migration, such as economic opportunities or family reunification. Others related to the broader historical context of migration in the region, such as the cultural traditions of northward migration to the USA and the perception of Mexico as a transit state within this trajectory.

About a third of the interviewees who had left their country for reasons that could form the basis of a claim for international protection were in the process of claiming, or about to file a claim, for asylum in Mexico. All but one of this group had initially planned to travel to the USA but had changed their destination and/or plan during transit after receiving information while in Mexico about human rights and the right to seek asylum.[1] There were two distinct groups within the two-thirds of those who were not claiming asylum in Mexico. Firstly, there were those continuing to the USA, where some intended to claim asylum. Secondly, there were those staying in Mexico on a humanitarian visa,[2] some of whom believed they could claim asylum in Mexico at a later point.

Many of those who had fled criminal violence and persecution perceived themselves as migrants before they were informed of the right to apply for refugee status by agencies or civil society in Mexico. This was reflected in the overwhelming majority of respondents (74%) who stated that their planned destination when they left their country had been the USA. The absence of social networks within Mexico appeared to deter some people from claiming asylum there. Two-thirds of people who had fled criminal violence in Northern Central America said that social networks or family connections had influenced their initial choice of destination (twenty-seven had connections in the USA and eleven in Mexico). Some of these people had decided to change their destination when they learnt about the right to seek asylum in Mexico, but most of those with strong social capital had not. These people named social networks and family contacts in the USA as their reasons for continuing to their original destination, and this was particularly pertinent if they had previously lived in the USA or had immediate family there.

Despite recognising that they could have a valid claim for asylum, some people chose to apply for the humanitarian visa either to regularise their stay in Mexico or to facilitate a safe onward journey through Mexico to the USA. For those who decided to remain in Mexico, this decision was influenced chiefly by the understanding that they were unable to apply

for asylum and a humanitarian visa concurrently, meaning that applicants had to choose between one or the other.[3] Thus, even when people do receive information about international protection, many choose not to file claims in Mexico, despite acknowledging their potential eligibility.

Further to this, some said they did not perceive Mexico as a safe and secure destination for those fleeing criminal violence, because it has many of the same security issues as Northern Central America and because the gangs and cartels have transnational reach across the region. A Salvadoran adolescent who was fleeing death threats from gangs told me that the reach of gangs extends throughout the region so there was "no point" in applying for protection in Mexico. Therefore, Mexico may not be thought of as a secure destination for those fleeing criminal violence.

Rights information, decision-making and trajectory: morphogenetic analysis

Twenty-seven of the fifty *Albergue* residents interviewed said that criminal violence was the primary reason for leaving their country, twenty-two of whom left because of individually targeted persecution by criminal groups, reporting situations that could form the basis for a claim for international protection. Of this group, 41% changed their intended destination during transit, 36% decided to continue on to their planned destination and 14% decided to temporarily change their destination. About a third of all the people who had fled death threats or forced recruitment into gangs decided to claim asylum in Mexico, changing their migration plans after being informed of this right during transit. Of those who were not making a claim for asylum in Mexico, half had relocated internally prior to migrating externally and the rest had not. All but one of these had initially planned to travel to the USA and had changed their destination during transit after receiving information on human rights. Only one person – a 37-year-old man from Guatemala – said that their reason for going to Mexico was to seek protection and claim asylum, having fled political persecution as well as gang violence.

There was scant prior awareness among my interviewees of the right to seek asylum or the fact that it could apply to their circumstances. Their countries of origin are categorised as having low human rights standards and endemic human rights abuse, and their reasons for migrating were linked to the situation of insecurity in their countries and the persistent failure on the part of the state to respect and uphold their rights. This, together with the perception that you lose all rights if you cross an international border in undocumented manner, "adversely affects their expectation of respect for their human rights".[4] Experts I spoke with also

highlighted that there tended to be a perception at the time that they were not refugees and that asylum did not apply to their situation, but only to those facing political persecution.

Among the migrants that I interviewed, those who did have knowledge of international protection and the right to seek asylum had received this information at the migrant shelters during transit or in migration detention on a previous journey that had resulted in their deportation. All the people staying at the *Albergue* were informed of the right to apply for asylum during their registration interview. Many expressed some surprise that their situations could entitle them to apply for international protection and, indeed, that such protection even existed. A 34-year-old trans woman from El Salvador told me: "I never knew we had a right to be safe".

This analysis focuses on people whose reasons for leaving their country indicated potential international protection needs and who had been informed of the right to seek asylum during transit through Mexico. It looks at people's decision-making in these cases, analysing what impact receiving this information had on their migration trajectory, indicated by whether they decided to stay in Mexico either temporarily or permanently, whether they decided to claim asylum, or whether they decided to continue with their initial plan. In each situation, it evaluates the importance of additional pull factors and practical obstacles in their decision-making, enabling a better understanding of the circumstances in which access to rights information influences the decisions of those fleeing persecution from criminal actors.

RIGHTS INFORMATION AND CHANGES IN DESTINATION

First, this section analyses the decision-making of those respondents who had left their country due to individual persecution and death threats from criminal groups and who decided to change their destination while in Mexico. Half of these people had social capital such as family and friends in their intended destinations, which were specific cities in the USA. The other half did not have a specific destination city, nor did they have social capital that had determined their intended destination. Overall, 60% of this group had decided to claim asylum in Mexico, and the other 40% had chosen to remain in Mexico once they had acquired the humanitarian visa.

For some people who were fleeing certain death but lacked social capital and had no specific destination, the decision-making process was straightforward and was determined by just one factor: "I heard about the right to asylum". For others, decision-making was more nuanced and deliberated. While embedded at the *Albergue*, I was able to see the

decision-making process in action. For example, one Honduran adolescent I interviewed just after he had arrived was still planning to continue to the USA, although he had no social capital or specific destination once there. Two days later, however, he informed me that now that he knew about his right to international protection and had considered all options, he was going to stay in Mexico and apply for asylum.

Those without social capital or a specific destination demonstrated flexibility in their decision-making, weighing up the pros and cons of their options, based particularly around their concerns about regularised status and not being returned to the country from which they had fled. They told me: "I didn't know where to go – whether to go to the USA, where things could be difficult, or to make a new life in Mexico. I decided to apply for asylum in Mexico"; "I will stay in Mexico as long as I get my asylum. If it gets refused, I will find some way of getting to the North [USA] and try to claim asylum there". Their reasoning also demonstrated that some of them understood the scope of protection offered by asylum, how this applied to their situation and that it was appropriate for their needs: "I can't return to my country, or I'll be killed"; "I definitely feel asylum is the more secure form"; "I can't stay in my country".

One trans woman had abandoned her home, family and a decent job with her country's government, but lacked knowledge of her right to seek asylum and the protection available under international law. She explained that she had intended to proceed to the USA and had joined the mixed flow of migrants with this intention, despite having fled for her life. Being informed of the right to seek asylum while she was at the migrant shelter in Arriaga, Chiapas, prompted her to change her mind about continuing onwards to her original destination. She decided instead to apply for asylum in Mexico because this was the most appropriate for her needs: "I left everything there and am claiming asylum because I cannot return to my country".

Another interviewee told of a dramatic change of plans after learning of the right to seek asylum, indicating that this knowledge would not only change his destination, but influence migration plans for his whole family. His initial plan had been to take his 15-year-old stepson to the USA, having fled forced recruitment and death threats from criminal gangs, and then to return home to Honduras to look after his family. He had absolutely no knowledge of international protection or asylum prior to leaving his country, and receiving this information led him to change his plans. Now his brother would take the minor to the USA to claim asylum there, while he himself would return to Honduras and leave again with his whole family. He explained:

> We arrived here in Ixtepec, and they told us about the right to asylum, which I had never heard of before. I plan to go back to collect my family so that I can claim asylum with them all. I think that they don't tell people about asylum in Honduras, or everyone would flee! Now I understand my whole family has rights under it, so I can save them.

Thus, lack of knowledge about asylum was a barrier to protection but, now this respondent knew about it, this would act as a pull factor in his subsequent external migration and that of his family. This indicates that if there were widespread awareness in the country of origin of the right to seek asylum, this could be a factor in migration decisions for people at risk.

Some 40% of those who had changed their destination and decided to remain in Mexico were not claiming asylum, but had applied for a humanitarian visa on the grounds of being the victim of a serious crime while in Mexico. Some understood the gravity of their situation and their probable international protection needs, but they were put off by the asylum process or demonstrated misunderstanding of the complex rules about applying for asylum or the humanitarian visa, and their different purposes. They told me: "I think you can renew the [humanitarian] visa several times – especially if you have death threats in your country"; "I think I will apply for asylum here in Mexico, but I am concerned about the process". Concerns about the lengthy process and some misunderstanding of the rules had led to some people applying for the humanitarian visa instead of asylum.

Some people wrongly believed that they could submit an asylum claim at a later date, although Mexico's rules on asylum held that applications for asylum must be filed within 30 days of arriving in the country. For instance, a young Guatemalan man told me that "The humanitarian visa should come through within a month, and then I can go and work in Mexico City while I claim asylum". Others were initially put off by the asylum process and left it too late to claim asylum. One Honduran man related that the *Fiscalía* (the prosecutor's office) told him he could seek asylum, but that processing the asylum claim would take longer than for the humanitarian visa, and he was put off by the time that he would have to wait for the asylum process to be completed. He delayed making a claim for more than 30 days, believing that he could apply for asylum later when he had secured the humanitarian visa that would allow him to find employment in Mexico.

Interviewees expressed practical reasons for not claiming asylum in Mexico, such as concerns about the length of time that the asylum application would take, uncertainty of its outcome and the inability to work

during the process. An adolescent from Guatemala told me, "I think I will apply for asylum here in Mexico but am concerned about the process". Many respondents weighed this process against that of applying for the humanitarian visa that is available for migrants who have been the victim of or witness to a serious crime in Mexico. Several respondents said that although they understood that their personal situation could potentially form the basis of a valid asylum claim, their decision-making had been influenced by the relative ease and security of applying for the humanitarian visa. A young Guatemalan explained, "I was told about the right to asylum, but also that it was not secure, that many are rejected. I decided to just go for the humanitarian visa, which is more guaranteed."

UNCHANGED DESTINATION OR TEMPORARY CHANGES TO PLANS

Nearly all of the people who did not change their intended destination during transit had a specific destination city and social capital in this intended destination. They had decided to remain at the *Albergue* for two months (the time taken for an application to be processed) to get a humanitarian visa on the grounds of having been the victim of a serious crime while in Mexico. The majority planned to use the humanitarian visa to facilitate their safe travel to the US–Mexico border, using public transport, and avoid the dangers to which they had been exposed on their journey through southern Mexico: "The day the humanitarian visa comes I'm off to the border! It's better with the visa, safer"; "My plan is to carry on to the North with the humanitarian visa so that I can travel safely".

Those who had social capital at their intended destination were clear that this was a pull factor, as were better economic opportunities: "I do not want to apply for asylum in Mexico because I would rather travel to the USA with my brother and uncle to join with family members there"; "I would rather go to the States to build a better future. I will not claim asylum there, just work". A Salvadoran adolescent who did not have social capital at his destination said that the process of applying for asylum deterred him from applying, which was a sentiment echoed by other respondents: "I am reluctant to claim asylum here because it is a lengthy process, and I cannot work".

For those whose intended destination was in Mexico, the humanitarian visa gave them the opportunity to regularise their stay, protection from deportation, the ability to travel safely and labour rights such as regular work and a minimum salary. A number of people told me that they would change their destination temporarily because of these rights to live and work in Mexico. These people all had social capital in their specified destination city but had decided to regularise their stay in Mexico with the humanitarian visa and work for a while before proceeding to their original destination.

How receiving rights information during transit affects migration trajectory

My data presented no evidence that the right to international protection had (at this time) acted as an influence on people's decision to migrate externally when they were fleeing organised crime and criminal violence. There was little knowledge of applicable rights prior to arriving at migrant shelters where they had been given this information. Certainly, there was no indication that people had fled criminal violence in their country in order to seek asylum or that the right to claim asylum had influenced people's decision to migrate externally; in general, respondents had been unaware of this right or how it may apply to their circumstances. People were fleeing from a place of danger rather than towards one that could offer legal protection or social benefits. What motivated them were the push factors of insecurity and the failure of their states to protect them.

Receiving information about the right to international protection during transit does affect some people's planned migration trajectory. However not all people who may be entitled to claim asylum do so when they are informed of this right. People with potential international protection needs who did not have social capital in the intended destination country were more likely to change their plans and apply for asylum in Mexico when they learned of this right during transit, displaying greater flexibility in decision-making.

Social capital in the intended destination appeared to be the strongest factor in people's decision not to change their plans, whereas the rules and potential outcomes of the asylum claim process appeared to be the strongest deterrent against application. In other words, those with family or friends in a specific destination city were less likely to change their plans while in transit, demonstrating that social capital was more important to some people than securing international protection in Mexico where they did not have social capital. Social capital is leveraged to access economic opportunities as well as for social means, making it a strong pull factor, especially within the broader historical context of migration out of Northern Central America to the USA. Most respondents with social capital in the USA planned to use the humanitarian visa to regularise their journey through Mexico, although some demonstrated flexibility in their timings, deciding to regularise their status in Mexico and to stay for longer than initially planned before continuing to their original destination.

Economic opportunities in the intended destination country were also a factor in decision-making about whether to apply for asylum. This was

especially so because asylum-seekers were not able to work or live independently in Mexico during the asylum application process. In practice, people were prevented from applying for the humanitarian visa and asylum concurrently, and this led to many opting for the humanitarian visa because it had a quicker and more guaranteed outcome, rather than because it offered them lasting and appropriate protection. The length of time taken for the humanitarian visa to be issued meant that they would subsequently be ineligible to apply for asylum, so in effect this denied people's right to apply for asylum and enjoy international protection. Whereas other factors that influence destination and deter people from staying and seeking protection in Mexico are primarily social and economic in nature, this is a practical barrier to protection that could be removed by bringing practice in line with the legal provision under Mexico's Migration Law.

All factors appeared to have a similar effect on the decision-making of those at immediate risk and those at imminent risk. That is to say, information about asylum and the application process did not have a significantly greater or lesser effect on those who had fled immediate risk or an actual attack, than on those who had fled imminent risk. However, those who had fled internally prior to leaving their country appeared to be more flexible in their decision-making during transit than those who had not attempted internal relocation, being more likely to change their destination and/or apply for asylum. Linking decisions taken during transit with those taken at initial mobility showed how decision-making is more flexible for those who took emergency flight from immediate risk and how agency is exercised as people respond to new opportunities to regularise their migratory status or apply for international protection.

During transit, the receipt of information about rights can influence the decision-making and plans of those people who may have some degree of international protection needs. Although this would not affect their decision to remain outside their country of origin, it had some influence on their choice of destination and their options for regularising their status. Nonetheless, other factors are highly relevant to decision-making at this point, including social capital in the planned destination, economic opportunities, fear of *maras* within Mexico, and concerns about the timing and outcome of the asylum process.

Social capital in a specific destination appeared to be the critical factor in determining destination, and this was only – but not always – deviated from when a more robust and regularised settlement was available in Mexico, which had previously been considered a country of transit rather

than destination. However, as seen by the comment of one interviewee, having information about the right to international protection while in the country of origin could influence the decision to move externally rather than internally, potentially prompting external migration with the explicit intention of claiming asylum.

Risk and violence during transit and their impact on migrants' agency

Given that migrant agency is a key factor in human mobility, this section examines some elements of this agency and the impact that the threat of violence or actual incidents of violence during migratory transit have on decision-making. Unlike other income-generating opportunities for organised crime, migration relies on the agency of migrants to perpetuate itself: without such agency, there would be no irregular migration from which to profit. As such, migrant agency is critical to the structural elaboration of organised crime during transit but is itself also elaborated in turn. Typically, the impact of the risk of violence on migrant agency is discussed from the perspective of constraint, describing how migrants are forced to use marginalised routes, to adopt strategies such as using people-smugglers for protection or to work for gangs due to financial difficulties or threats of violence. However, agency is demonstrated by people travelling despite the known risks, and it is enabled when people take advantage of unanticipated opportunities to regularise their stay in Mexico or continue with their ongoing journey. Analysing people's decision-making – how they evaluate risk from organised crime prior to migrating, their reasons for taking advantage of opportunities to regularise their status, and any resulting changes to their migration plans or choice of destination – brings new depth to our understanding of how violence affects decision-making during transit.

Migrant experiences in southern Mexico, 2015

People who worked at the *Albergue* in Ixtepec and with migrants in southern Mexico reported that there had been significant changes in terms of the pattern and volume of crime against migrants in the region after the implementation of *Plan Frontera Sur* (the Southern Border Plan) and new in-country migration controls (see Chapter 1). This had led to a marked difference in the length of time people stayed at the *Albergue* and the services that it now needed to provide. During the period 2011–14, violence against migrants in the states of Chiapas and Oaxaca was very low,

with just a handful of reported incidents. The implementation of *Plan Frontera Sur* in August 2014 provoked abrupt changes in the number of and the needs of migrants arriving at the *Albergue*.[5]

Staff at the *Albergue* explained that previously, migrants had stayed for a few hours or a couple of days for rest and food. After the implementation of *Plan Frontera Sur*, however, they needed to stay for longer and had more complex needs. Staff described how what had been a migrant shelter became a refugee camp, putting pressure on infrastructure and services. As well as additional medical needs resulting from people having to walk vast distances, now every person arriving at the *Albergue* had been the victim of a criminal attack while in southern Mexico. This meant that meeting their needs became much more challenging from practical, legal and psychological perspectives. People needed to stay at the *Albergue* for several weeks to report crimes and apply for a humanitarian visa or for up to seven months to make an asylum claim. They arrived at the *Albergue* with different psychological challenges, including stress and depression. There was also danger in and around the *Albergue* because of the presence of *maras* in the close vicinity and along the route of the train, which runs alongside it, and that, according to staff, was still under *mara* control.

During the time of my fieldwork, the majority of the people staying at the *Albergue* (70%) were waiting for the humanitarian visa that is available to migrants who had been the victim of, or witness to, a serious crime while in Mexico.[6] Some people with potential international protection needs chose to apply for this humanitarian visa instead of asylum, while others were applying for this visa either to regularise their stay and remain in Mexico or to enable them to continue their journey through Mexico in a regular manner, before attempting to cross the US border.

Prior knowledge of risk during transit

To contextualise the experience of violence and crime during transit, we first need to understand what people knew about the threats before they started their journey, and how this knowledge factored into their decision to leave their country. Respondents at both the Returns Centre and the *Albergue* expressed different levels of knowledge about the nature of risk and the potential perpetrators of risk, violence and abuse they might encounter during transit. Just 17% said that they knew nothing of the risks of the journey before they left their country. While a few people did not mention any specific risk, 71% (forty-one people) expressed some degree of knowledge of the indirect violence of the journey (environmental factors and injuries or death), of the threat from state actors (including

apprehension and extortion) and of direct violence or criminal attacks that happen during transit. Answering unprompted, all forty-one mentioned the threat of some type of criminal attack, citing assault (73%), kidnap (49%), murder (44%), robbery (32%), rape (29%), extortion (12%) and people-trafficking (7%); some 15% mentioned Mexican cartels or the Zetas as a specific threat during transit.

Those who had some knowledge of the risks before leaving their country had gleaned this information from a variety of sources, with many mentioning multiple sources. Of this group, 72% had received information from friends or family, 34% from TV, radio and newspapers, 10% from the internet, 24% from other people who had migrated, and 17% had drawn on their own previous experiences of migration. People from Honduras were more likely to have received information about the journey from TV, with half of them saying that they had learned about the risks from news and public information programmes.[7] A Honduran man explained that local information programmes on TV "tell us you have to pay $100 to get on train or gangs will take you". Another explained that gathering information prior to leaving his country had been a core part of proactive planning: "I went on the internet to get all information before we left".

Some people expressed differences between their expectations prior to travelling and their actual experiences. People who were travelling for the first time and had no knowledge of the dangers they might encounter in transit expressed surprise at the difficulties they had experienced: "We had little idea of what it's like because it's the first time"; "I thought it would be quieter than it was". Those with some knowledge also expressed surprise at the severity of the situation in reality. A young Honduran man told me: "Realistically I did not expect this. I thought there would be some gangs, but I did not expect the problems with *migra* (slang for migration officers) and so much walking". Notably, even people who had previously migrated through Mexico expressed similar surprise at their actual experiences, compared with their expectations and previous experience. Many related that it was much more dangerous than it had been before, and that this was due both to the arduous nature of the journey itself and to criminal activity; both of these factors were heightened by the migration controls that meant that migrants were unable to use public transport and had to take marginalised and isolated routes. They told me: "It was not like this before. I didn't know how dangerous it had become or that I'd have to walk so far"; "Now it's more dangerous. There was not so much crime before"; "Mexico is really hard now – lots of *migra*, loads of criminals, loads of kidnappings, *maras*"; "There were always robberies and attacks before,

but very little. This has really increased this year". Thus, the situation in southern Mexico in 2015 was more extreme and dangerous than people anticipated, even when they had prior knowledge of the risks or first-hand experience of previous migration.

Regardless of any known risk, all interviewees had left their countries, meaning the agency of people who had good awareness of the dangers posed by criminal actors was not completely constrained by this risk. A 20-year-old Salvadoran, who I interviewed at the Returns Centre after he had been deported, told me: "I knew the risks but ignored them". Some of the people fleeing criminal violence who were aware of the dangers during transit expressed this more starkly, with one man from Honduras explaining: "I knew all this, but it didn't matter as I was running for my life". This shows an overwhelming imperative to abandon their country despite known risks. There did not appear to be any clear distinction between the prior knowledge and decision-making of those who were fleeing criminal violence and those who were migrating for other reasons.

Criminal attacks during transit

The overwhelming majority – some 84% – of people interviewed at the *Albergue* had been the victim of a serious crime during transit. When limited to those from Northern Central America who had crossed the land border between Guatemala and Mexico, this figure rose to 88%. Of the forty-two people who had suffered an attack on this migration journey, six people had been the victim of more than one attack during their transit through Mexico. All but two people reported that they had been victims of armed robbery and over a third had also been victims of physical assault. Other reported crimes ranged in severity from express kidnap to gang rape to attempted murder. The attacks were conducted by groups armed with firearms and machetes, and demonstrated premeditated, targeted and systematic activity with a specific modus operandi.

Many people I interviewed at the *Albergue* described or showed serious wounds that had been inflicted during the attacks, many of which had warranted medical attention – although this had not always been received. Injuries included sprained limbs, deep bruising, crushed feet that required surgery, permanent scarring from being beaten, and machete wounds to the shoulder and head. The most severe attack related during interviews was the attempted murder of a 35-year-old Honduran man. After witnessing the gang rape of a young Guatemalan woman on top of the train known as *La Bestia* (the Beast), he had been violently beaten and thrown from the train by the gang. State officials found him unconscious, and he spent three days in emergency care. He related to me that

he still bore deep psychological scars from his experience during transit. These were compounded by his experiences in Honduras – from where he had fled death threats from criminal gangs – and by his previous deportation from the USA, where he had lived and where his wife and children remained.

The descriptions of the incidents presented a clear picture of systematic attacks on migrants travelling through southern Mexico, perpetrated by small groups of assailants who operated at all times of day and night. Most respondents said that the attackers had been lying in wait for them, either along the train tracks as they walked or in the places where they took diversions away from the road or rail to avoid migration checkpoints. They described how: "They were hidden, waiting for us"; "The men came out from hiding"; "They were lying in wait in the undergrowth". A few who had managed to get onto the trains described gangs boarding to hold and extort them in a type of kidnap. Another reported that a minibus driver had driven them to an express kidnap, where they were detained and held for ransom. All respondents reported that they had been robbed of their money and possessions, and many said that they had been forced to take off their clothes and lie naked on the ground. Sometimes this was so that clothing and shoes could be checked for hidden money, and sometimes the assailants stole their clothes and shoes, leaving victims naked after the attack.

Nearly all respondents said small gangs of criminals had perpetrated the attacks against them, with some describing larger, more organised and more violent groups and others describing what appeared to be either common criminals or *campesinos* (peasants/rural workers). Some distinction was noted between descriptions of attacks on the route north from Tapachula and those on the route from Tenosique, with the latter being much more violent and involving larger groups of both assailants and victims. Some respondents believed their attacks had been perpetrated by *maras*; a 24-year-old Guatemalan man who had fled gang persecution reported being "assaulted on train tracks by *Mara Salvatrucha* . . . there were two MS with guns and machetes". All reports indicated that these attacks were systematic, premeditated and targeted specifically at migrants in transit.

Decision-making following criminal attacks

Ethnographic observations at the *Albergue* allowed me to witness migrants' decision-making in progress. People who had just arrived weighed up their options, often taking a few days to decide whether to apply and wait for a visa or whether to continue on their journey straight away. Many

people who reported such attacks were considering applying for the humanitarian visa, which was seen as a way of regularising either a stay in Mexico or their onward journey.

Of those applying for the humanitarian visa, 31% planned to continue to the USA as soon as they received the visa rather than remain in Mexico to assist with investigations and criminal proceedings. Others planned to remain in Mexico either temporarily (23%) or for a longer period of time (45%), for reasons connected to work, family or an unwillingness to return to danger in their country of origin. Only one person – a 45-year-old man from El Salvador – said that they had reported their attack for the purpose of a criminal investigation and prevention: "I didn't want the same thing to happen to other people".[8] The decisions of those whose reasons for migrating were not related to criminal violence were split more or less evenly across these three options. However, those whose flight indicated potential international protection needs but who had chosen not to apply for asylum were far more likely to decide to stay in Mexico with the humanitarian visa for the near future, with over half deciding to do this.

People's decision-making considered additional pull factors such as social capital in a specific destination and economic opportunities in the USA. The primary influence of a specific destination was found to be social capital. Those who had strong social capital in a specific destination (that is, a named city), and had left their country for family reunification or work, were least likely to change their migration plans. People without social capital in a specific destination or who had no particular destination in mind demonstrated more flexibility in their decision-making, and were more likely to change their migration plans, either temporarily or for the foreseeable future. Those whose reasons for leaving their country indicated potential international protection needs were most likely to change their planned destination, although social capital was also important for them. People applying for a humanitarian visa when they may have had a potential asylum case, or when they were fully aware of their international protection needs, said that they thought it was a quicker and more guaranteed route to regularisation.

NO CHANGES TO PLANNED DESTINATION FOLLOWING CRIMINAL ATTACKS

People who did not change their planned destination but had decided to wait at the *Albergue* for the humanitarian visa included people whose original destination was Mexico and others who were going to continue to the USA as soon as they received the visa. These respondents were prepared to interrupt their journey and wait for approximately two months at the *Albergue* for this visa to be processed. A 29-year-old Honduran

man told me, "At times I wish I'd just gone, but I know I have to wait. It's better to be here legally". Those who had originally intended to stay in Mexico cited as a factor the opportunity to regularise their stay and to be able to work, live and travel openly and freely. They explained: "I don't want to be illegal, to be hiding all the time"; "I want to stay in Mexico working. I need peace here and personal security"; "I can get work legally and be properly paid. I can also travel in the country safely with no problems".

Those who were going to continue to the USA said that the humanitarian visa would enable them to travel safely. Some mentioned that it would afford them protection from criminal actors as well as state actors and would allow them to make use of public transport: "I can go on the bus and not be hassled by *migra* or the victim of assaults"; "I will use it to continue my journey in safety"; "I will use the visa to travel safely through Mexico to reach the US border". The benefits of temporarily compromising their initial plans and waiting at the *Albergue* for the visa were that regularisation afforded them some rights in Mexico. Notably, they said it afforded them stability and protection from deportation, the ability to travel in a manner that afforded safety and physical integrity, and labour rights such as access to work and a minimum salary.

Some of the people who had experienced multiple attacks in southern Mexico before arriving at the *Albergue* stated that they had continued their journey without reporting the crimes because it was not safe to remain in the area where the criminal attack occurred or report the attack, and they wanted to continue to their planned destination. Others did not report crimes until they reached a place of safety and received rights information. A young Honduran man who had been the victim of multiple violent attacks in the areas around Tenosique and Palenque explained: "No one reported it. We had been threatened with death if we reported it, so we were terrified to do so. We were too scared to report it and just wanted to continue on. I have reported it now that I am here at the *Albergue*." This shows how rights information and civil society support can positively influence people's decision-making.

Equally, there were people who recounted that other migrants with whom they had shared experiences of serious crime had decided to continue on their planned journey. This may have been after receiving any required medical attention, but not filing a police report or applying for a humanitarian visa. A 35-year-old Honduran man who had witnessed the gang rape of a Guatemalan woman by a criminal gang that boarded the train told me: "The police offered her help, but she wanted to continue. She was taken to a private women's clinic for treatment. I believe she then continued her journey."

CHANGES TO PLANNED DESTINATION FOLLOWING CRIMINAL ATTACKS

There were also people who changed their original plans to proceed to the USA and decided to remain in Mexico for the foreseeable future, using the humanitarian visa to regularise their stay and secure employment rights. As discussed previously, over half of those who had fled criminal violence had decided to remain in Mexico and many had decided to apply for a humanitarian visa instead of claiming asylum. Other people decided to regularise their stay and changed their destination to other cities in Mexico, where they had family or other social capital.

Some of those who changed their destination had previously lived in the USA, from where they had been deported, and had left their family there. While some people seeking family reunification planned to cross the border irregularly, others had decided to regularise their status in Mexico with the humanitarian visa and to live and work in cities in the border region, where their family could visit. Two men explained their rationale: "I think I may stay in Mexico, as I don't want to go to the North and be deported again"; "I don't think I'll go to the USA now – just close enough to the border that my child can come and visit me".

For others, changes to their migration plans were viewed as temporary. Five respondents had decided to spend an extended period working in Mexico to earn money before proceeding to the USA, as they had formerly planned. These people's primary reason for leaving their country was to find work; none of them had a specific destination where they could be assured of support from family members or friends. Hence, their decision-making demonstrated more flexibility than that of people who had additional pull factors in their planned destination. A 32-year-old Honduran man explained that he would go "wherever the opportunity for work comes up. I have no people in the USA, so would prefer to stay in Mexico, documented". They planned to work in Mexico for a while with the visa, earn some money, and then perhaps continue to the USA. Regularising their status would give them more prospects for gaining secure work and employment rights. A 41-year-old Salvadoran explained how he was weighing up his options: "I am still thinking about continuing to the USA. But now I have the opportunity to work here in Mexico, and even to extend the visa, I am considering doing this instead as it offers more stability and security."

None of the respondents at the *Albergue* or the Returns Centre, had decided to return to their country of origin because they feared a criminal attack. During formal interviews and informal conversations, two people mentioned others who had been attacked with them, and who had subsequently decided to return to their country of origin. Only one man at

the *Albergue* reported that family members or friends had returned to their country because of a violent assault. He told me that his 17-year-old nephew had returned after an armed robbery: "*Grupo Beta*[9] helped him go back to El Salvador voluntarily when he decided not to continue because of all the walking and the attack".

Decision-making of those who had fled criminal violence and persecution

For those people who had left their country for reasons that indicated potential international needs, security and stability were key priorities. This is demonstrated in their decision-making over whether to apply for asylum or a humanitarian visa. Several respondents indicated that, after weighing up the practicalities, they felt the process of applying for asylum did not offer them the same guarantee of success as the humanitarian visa. Others expressed concerns about the lengthy asylum application process, during which they would be unable to work, and the low approval rate compared to that of the humanitarian visa. They said that the humanitarian visa could provide a quicker and more guaranteed way than applying for asylum to regularise their migratory status in Mexico.[10]

Some of those who had fled criminal violence or persecution said that they would use the humanitarian visa to either work in Mexico or to continue safely to the USA, as was the case with those who were migrating for other reasons. Those who were planning to continue to the USA explained that having a visa would offer them protection during transit: "It's better with the visa, safer"; "I will use the visa to get to border safely in a bus"; "It is very dangerous at the moment, so I am thinking of the humanitarian visa because it will allow me to travel safely. The route is so dangerous now because of kidnappings and constant danger." Acquiring a humanitarian visa was a pragmatic strategy to protect themselves from further risk of assault or violent abuse from both state and non-state actors in Mexico. However, they also regarded the humanitarian visa as a means to protect themselves from the risk of danger presented by non-state actors, should they be deported to their country of origin.

How criminal abuse during transit affects migrant agency

The people interviewed at the *Albergue* were travelling without a people-smuggler and were, therefore, extremely vulnerable to attacks by organised criminal groups during transit (see Chapters 3 and 4). People had different levels of knowledge about the threat from organised crime prior to leaving their country, but this did not constrain their agency to such a

degree that they decided not to leave their country. However, agency is enabled by opportunities that are sometimes presented after a serious crime during transit, when people learn about their rights and may then take advantage of the opportunity to regularise their migratory status. People who decided to wait at the *Albergue* for this visa expressed the benefits of regularisation in terms of gaining rights and mitigating risk, and they balanced these benefits with the push and pull factors that had driven their initial migration. This applied equally to those whose reasons for leaving their country indicated some degree of potential international protection needs, although some of this group decided to apply for a humanitarian visa instead of asylum and were additionally using it to protect against deportation to a situation of risk in their country of origin. Thus, the visa was seen as a strategy for self-protection from both state actors and criminal actors.

Just as those who altered their migration plans after receiving information about international protection while in transit evaluated the available options and changed their plans, so too did people who had been the victim of a crime and subsequently received information about the right to claim a humanitarian visa. This was particularly apparent when people had suffered multiple incidents, with people proceeding from the area of immediate risk of attack – including the risk of violent reprisals from criminal gangs if they reported crimes – until they came to a place of safety where they received information about how to file reports and their right to apply for the humanitarian visa and support during the application processes. The criminal attack was not in itself the decisive factor but, rather, it led to accessing information about their rights and the civil society support that enabled them to file applications, which then factored into their decision-making. Although agency has typically been framed as being constrained by risk during transit, this analysis shows how migrants respond to unexpected opportunities and how subsequent decisions shape the transit trajectory and ongoing mobility.

Decision-making in transit as part of the migration journey

Whereas initial decisions in response to risk levels may have resulted in acute flight, opportunities arising during transit can offer not only new options (such as regularisation of migratory status or international protection), but also time to reflect, gather information and consider all options before making a decision (for example, at migrant shelters). Throughout the migration journey, there are constant decisions to be made and the

factors that constrain or enable agency are as changeable and in flux as the trajectory itself. Decisions are made and agency exercised throughout the migration journey, and both shape it and are shaped by it. This expands focus beyond the decision about initial mobility and connects it with these later decisions, allowing us to join theories on motivation and mobility with those on transit migration and the mixed flows within it.

Some good attention has been given to asylum claims and international protection on grounds related to organised crime and criminal violence in the USA (Corsetti 2006, Pong 2014, Carlson and Gallagher 2015, McNamara 2017) and the regional and international systems (Cantor 2016c, Serna 2016, Medrano 2017), although there appears to be less analysis of how people decide whether to apply for asylum. My analysis generates new knowledge about how people decide whether to apply for international protection when they learn of this right during transit or reach a country where they can apply for asylum. It reveals some of the nuance about these decisions and the factors that people consider in them – which include social capital, security and the need to work – and how these may determine people's destination and deter or encourage applications for asylum. Access to rights information and civil society support was found to be critical in swaying these decisions, although administrative and practical challenges were a deterrent, while social capital remained a strong pull factor to continue to the originally intended destination.

Analysis of migrants' decision-making prior to leaving their country (Chapter 1) and during the migration journey builds on understanding about how people's agency constantly responds to opportunities and challenges during the migration trajectory. Events both before and during migration may change the choices available to people and the time available to evaluate options and to respond with decisions and new strategies. This shows how agency is not so much constrained or expanded but is exercised in relation to and in the context of factors that either limit or expand people's scope for rational choice (Richmond 1988, 1993, Van Hear 1998, Van Hear et al. 2009). This happens not just at the point they decide to migrate, but throughout the migration journey, with decision-making then shaping the migratory trajectory (Düvell 2008, 2010, de Haas 2011, Dimitriadi 2016).

Decision-making during transit continues to be informed by the same factors that initially led to people leaving their homes and choosing their destination, but also responds to obstacles and opportunities during transit. People displayed different degrees of flexibility in their decision-making during transit, leading to changes in their trajectory and destination. Analysis also revealed that those who had displaced

internally before fleeing their country were more flexible about decision-making during transit. This shows that theories about initial motivation and mobility (Kunz 1973, 1981, Richmond 1988, 1993, Van Hear 1998, Turton 2003) are valid throughout the migration continuum, as decision-making continues to shape mobility and people consider the same types of factors that prompted initial mobility. Thus, my analysis presents a more comprehensive perspective, where decision-making shapes not only the transit portion of migration (Papadopoulou-Kourkoula 2008, Castagnone 2011, Düvell 2010, Basok et al. 2015, Dimitriadi 2016), but every part of the migration journey from the initial mobility. This advances debates on transit migration, around both trajectory (for example, Düvell 2010, de Haas 2011, Dimitriadi 2016) and mixed flows (for example, Van Hear et al. 2009, Schuster 2016), and opens opportunities to better understand the internal and external dimensions of flight in a consolidated manner.

Notes

1. Just one man – a 37-year-old from Guatemala – had travelled to Mexico expressly to seek asylum there on his first migration, having fled threats that he understood to be related to his political activities as well as to criminal gangs.

2. This humanitarian visa is provided for by Mexico's 2011 *Ley de Migración* (Migration Law), Art. 52.V.a, for *inter alia* foreign nationals who have been the victim of or witness to a crime while in Mexican territory.

3. *Albergue* staff told me that the migration authorities in Mexico were not allowing people with potential grounds for claiming asylum to simultaneously apply for asylum and a humanitarian visa after being the victim of crime, although there was no legal or written policy reason for this. Despite the allowance in law for the humanitarian visa to be available to asylum seekers, this was being denied or not consistently allowed in practice (Human Rights Watch 2016, International Crisis Group 2016). Advocacy work led to limited changes in some regions by October 2016, but concurrent applications were not being permitted consistently and their acceptance depended largely on successful advocacy work.

4. Academic researcher and director of civil society organisation, San Salvador, December 2015. Further to this, a study found that the majority of Salvadoran migrants (57% of men and 59% of women) believed that they would lose their entitlement to human rights when they migrated: "The identity and stigma associated with being illegal leads migrants to believe that they are not entitled to respect for their human rights in both the transit and the destination countries" (Ramos et al. 2013: 16).

5. Between August 2014 and July 2015, people staying at the *Albergue* in Ixtepec reported over 600 crime incidents and filed 260 individual applications for humanitarian visas; in the previous year fewer than ten such applications were filed.

6. Mexico's 2011 *Ley de Migración* (Migration Law), Art. 52.V.a, makes provision for a humanitarian visa for a foreign national who has been the victim of or witness to a crime while in Mexican territory. The law also provides for this type of visa to be available to asylum seekers, but this latter option was not being consistently allowed in practice at the time.

7. These were likely part of the US-funded media campaigns "Danger Awareness" in 2014 and "Know the Facts" in 2015 (Hiskey et al. 2017: 4).

8. There were barely any prosecutions for crimes against migrants and there appeared to be a lack of political will to investigate them. While there was a very low reporting rate (thought to be 20% at most), the state was not investigating these gangs and attacks even when reports were filed. One study found that the special prosecutor for crimes against migrants in Oaxaca opened preliminary investigations for just a quarter of the 383 complaints received over a four-year period, with only four resulting in prosecutions (Knippen et al. 2015).

9. *Grupo Beta* is a migrant protection service established in Article 71 of the 2011 *Ley de Migración* (Migration Law). It is provided by Mexico's National Institute of Migration (INM) to support the human rights of migrants, regardless of their nationality or immigration status, by offering information, medical assistance and water.

10. In 2014, 32% of concluded asylum claims were approved by the Mexican asylum-processing body, COMAR (Mexican Commission for Refugee Assistance).

Chapter 3

Organised crime groups as a threat to migrants during transit

This chapter explains how organised crime evolved as a danger to Central American migrants during transit through Mexico. Transit migrants have become a significant source of income for some Mexican criminal organisations, and systematic and extreme violence and abuse against migrants transiting Mexico has increased exponentially in recent years, as has been well documented by human rights organisations and academics.[1] My analysis deepens understanding of how the presence, activities and threats of organised crime as migrants transit through Mexico changed as a result of increased migration controls and non-migratory government policies. It explores how the threat from organised crime developed into a structural factor during transit and the role played by migration controls and other policy in this development, examining how specific policy events in 2006 and 2014 shaped this change.

While previous analysis has looked at the development of organised crime in the region (for analysis post-2000 development of and distinction between groups, see, for instance, Calderón et al. 2015, Medel and Thoumi 2014, Trejo and Ley 2020), less focus has been given to how and why it developed as a structural factor in migration, although it is widely acknowledged that it has established itself as such. Without addressing this critical question, it is difficult to understand how factors such as migrant agency, migration controls and government policy have influenced this development, whether there were specific causal mechanisms, and how this phenomenon may fit into the debate about the 'unintended consequences' of migration controls. Such analysis is critical in order to identify and understand any state responsibility for the situation, whether direct or indirect.

This chapter analyses data gathered from my interviews with experts and previously published material to explain how the presence, activities and threats of organised crime during transit changed in response to increased migration controls and other government policies, and how policy events in 2006 and 2014 shaped or catalysed these changes. It first examines how 2006 government policy in the post-authoritarian context led to the fragmentation of large criminal groups in Mexico and a reinforcing of the strategy of territorial control, and why this resulted in the systematic involvement of organised crime in the abuse of migrants in transit. It then examines the situation following the implementation of increased in-country migration controls in 2014, evaluating how the already established structural force of organised crime shaped criminal activities against migrants.

My analysis demonstrates how government policies catalysed the development of organised crime into a structural factor in the transit stage of migration and how increasing migration controls in a context where direct or indirect violence against migrants is widely tolerated can lead to changes in the manifestation of such violence. It shows that – although increased threat from organised crime is an unintended yet foreseeable consequence of restrictive migration controls in the region – government policies that were not connected to migration have had a greater causal effect on this structural development than migration policies, and that impunity has reinforced the involvement of organised crime in migration-related activities and led to it becoming widespread and systematic. This chapter provides insight into how such developments happen and offers a basis for understanding what the adverse consequences of policy may be in certain contexts, the potential consequences of delivering both migration policy and policy unrelated to migration in an environment of endemic impunity, corruption and criminality, and to what extent such consequences should be foreseeable and, by extension, preventable. I frame this as policy-driven harm, adopting Jácome's (2008) reading of structural violence and engaging with literature on the 'unintended consequences of policy' (Cornelius 2001, 2004, Cornelius et al. 2004, Czaika and De Haas 2013, 2016, Grant 2011, Michalowski and Hardy 2014, Schmoll 2016, Slack and Whiteford 2013, Weber and Pickering 2011), arguing that the adverse consequences of policy were foreseeable.

Locating criminal violence and abuse in the transit state

By 2010, the transit journey between Central America and Mexico had become the most violent place in the world for migrants and this was largely due to direct violence perpetrated by criminal groups (Dudley

and Corcoran 2011). There are discernible links between the marginalised routes that migrants are forced into by tighter migration controls, and their vulnerability to criminal abuse and exploitation (Jácome 2008, Velasco 2009, Ángeles Cruz 2010, Casillas 2011, Slack and Whiteford 2013, Basok et al. 2015, Slack 2015, 2019, Hiemstra 2019). While some academic attention has been given to the empirical situation, rather less has been given to how this evolved in terms of the unseen causal mechanisms and the role of policy and the state.

In the post-authoritarian space that followed Mexico's transition to a multi-party system, a number of large criminal organisations (often referred to as *cartels*) hardened their criminal governance, diversified their activities and expanded their operations, developed their own military arms to secure their territory or *plazas*, and battled for control with other groups (Dudley 2012, Calderón et al. 2015, Trejo and Ley 2020). With renewed focus on the control of territory and the charging of dues or extortion, known as *piso*, on all activity within their territory, enforced with extreme violence, the organised crime groups started targeting migrants and people-smugglers passing through Mexico (Slack and Whiteford 2013, Basok et al. 2015, Slack 2015, 2019). This was bolstered by the externalisation of US migration policy and the hardening of controls at the US–Mexico border and, subsequently, inside Mexico (Hiemstra 2019). The deliberate and strategic infiltration of state institutions by criminal networks in Mexico fed a cycle of impunity and bred further unpunished abuse (Casillas 2011). The situation of widespread violence can be understood as structural violence, with the development, normalisation and state tolerance of indirect violence against migrants during their transit through Mexico being the 'gatekeeper' of direct violence, leading to the embedding of structural violence as an inherent part of the migrant journey (Jácome 2008).

Using its "extraordinary capability to adapt to changing social and economic conditions" (Paoli 2002: 64), organised crime can respond to new economic opportunities and state actions and is thus able to adapt responsively to systematically exploit transit migrants. Government structures and "political institutions set incentives and constraints that influence how criminal organisations behave, organise, compromise or fight one other" (Ríos 2012: 171), and the development of organised criminal groups in Mexico has responded to specific political and policy events (Medel and Thoumi 2014, Calderón et al. 2015, Trejo and Ley 2020). Such responsive developments were most pronounced at the end of single-party rule and the associated patronage in 2000 and again after the crackdown on organised crime that began in 2006, resulting in new criminal structures, the establishment of private militias and operations,

and income portfolios rooted in territorial control and criminal governance (Trejo and Ley 2020). The lack of effective state intervention and control is central to the persistence and pervasiveness of the abuse, which is thus perpetrated primarily by "the symbiotic corruption of state officials and impunity of organised criminal groups" (Dimmitt Gnam 2013: 717–18) – a critical element of criminal governance (Magaloni et al. 2020).

Restrictive migration controls can have negative policy outcomes that have been described as "unintended consequences" (Cornelius 2001, 2004, Cornelius et al. 2004, Massey et al. 2008) or – more neutrally – "adverse consequences" (Grant 2011, Weber and Pickering 2011), some of which, such as increased deaths in remote border zones (Grant 2011, Weber and Pickering 2011), could be foreseeable. Border enforcement policies impact the process of irregular migration, leading to migrants taking marginalised routes and crossing in more remote areas, which increases the physical risks and costs of illegal entry (Grant 2011, Weber and Pickering 2011, Slack and Whiteford 2013). Tightening border controls adversely affects the human rights and personal security of irregular migrants, and research shows correlations between increased migration controls and increased migrant deaths (Grant 2011, Weber and Pickering 2011, Slack and Whiteford 2013, Hiemstra 2019). As well as diverting migrants along more dangerous routes to cross borders, such measures increase vulnerability to exploitation by people-smugglers and criminal organisations that can lead to violations of human rights and endangerment of life (Cornelius 2001, 2004, Cornelius et al. 2004, Czaika and De Haas 2013, 2016, Schmoll 2016, Hiemstra 2019). There is a clear link between lack of access to safe migration paths and vulnerability to trafficking (Grant 2011, Moses 2006, Mullaly 2014) as well as the "false dichotomy that sometimes exists between smuggling and trafficking" (Castles et al. 2014: 237–8). This can lead to serious human rights violations of the most vulnerable irregular migrants and to security risks in transit.

There is general consensus among contemporary commentators that restrictive migration policies and controls are rarely effective in preventing irregular migration, but rather make it more expensive and dangerous and increase migrants' vulnerability to abuse (see, for instance, Basok et al. 2015, Rojas Wiesner and Caballeros 2015, Slack 2019, Hiemstra 2019). There is some difference of opinion about the threat of violence during transit on migrant agency. Some argue that the reduction in flows of transit migrants in 2006 and 2007 was "at least partly ascribable to growing apprehension of the dangers posed by the journey north. These dangers have been augmented by the increasing involvement of territorial and predatory organised crime groups in controlling the flow" (UNODC 2012: 46–7). It has been suggested that "in some cases it would seem like the

Mexican government relies on the perpetuation of indirect violence and the lack of rule of law for migration control purposes" (Jácome 2008: 22), and that the state has allowed this to persist as a deliberate strategy to deter migrants (Velasco 2009, Vogt 2020). Moreover, "[d]espite reports of these problems, the US Government continues to fund and otherwise support the programs and initiatives that create them, and in so doing the USA enables and conceals flagrant violation of migrants' rights" and, through the externalisation of policy, "obscures and evades responsibility for its inconvenient, embarrassing, and contradictory consequences" (Hiemstra 2019: 54). Although there is growing acknowledgement (even consensus) that criminal involvement in migration increases where there are restrictive migration controls, there is less analysis of how this happens and the role of the state in this (see Chapter 5).

Transit migration: the nature and source of vulnerability and abuse

Violence against migrants passing through Mexico has been documented by agencies and organisations for many years. To clarify why this situation affects the transit portion of migration and what makes transit migrants particularly vulnerable to criminal attacks, this section details the sources of this vulnerability, the nature of abuse against transit migrants by organised criminal groups in Mexico, and the widespread and systematic character of this abuse. Examining the different elements of this vulnerability and abuse reveals the contextual factors that enable organised criminal groups to target, exploit and profit from migrants during transit. This abuse is framed here as structural violence, teasing out links between indirect and direct violence and highlighting that both are systematically tolerated. This supports the central argument that abuse against migrants in the region was predictable and was catalysed by government policy, given the context of impunity, corruption and entrenched criminal governance.

The vulnerability of people in transit

Commentators have noted the "extreme vulnerability" (Bustamante 2011) of Central American migrants passing through Mexico, and describe the abuse enacted against them by organised crime as the "new face" of this vulnerability (Casillas 2011). The vulnerability of migrants is understood as a "heterogeneously imposed condition of powerlessness" (Bustamante

2011: 565) that increases when the migrant leaves home and becomes particularly apparent during transit, where the "spatial liminality of transit migration exacerbates processes of exclusion and violence" (Vogt 2013: 765). The vulnerability experienced during transit is multi-causal and multidimensional (Rojas Wiesner and Caballeros 2015), being linked to socio-political and geographical factors, as well as specific factors such as age and gender.

Transit migrants in Mexico experience systematic violations of their human rights enveloped by impunity, with most abuse going unpunished and being met with apathy, omission or corruption (Ángeles Cruz 2010: 472–5). This has enabled abuse of migrants to become both systematic and systemic. State and non-state actors "are able to abuse migrants' legal invisibility, and thus benefit from any measures that drive migrants further underground" (Boswell 2008: 188), creating a cycle of invisibility and impunity. Impunity is manufactured in part through the deliberate strategies of organised criminal groups (Barnes 2017, Trejo and Ley 2020, Magaloni et al. 2020) but its manufacture and maintenance are more complex that this suggests. The cycle of impunity is fed by the corruption of state authorities through coercion or collusion and the strategic infiltration of state institutions, and by people's reluctance to report due to fear of violent retribution, a lack of trust in the authorities or the barriers set out above. Not only does this allow the replication and perpetuation of abuse by organised crime groups, it also further weakens the integrity and authority of the transit state (see Chapter 5).

Risk applies equally to all within the mixed migration flow passing through Mexico, including those who may have some degree of potential international protection needs, even though the level of immediate risk or individual persecution they experienced in their country of origin may have alleviated. Restrictive migration controls "along with the evolution of criminal networks on a national scale, increase the vulnerability", resulting in journeys "marked by systemic risks" (Casillas 2011: 296). Such controls compel migrants to travel on geographically remote roads and inhospitable paths, exposing them to environmental dangers and transport risks, resulting in their remoteness from law and rights and an increased vulnerability to systematic abuse by both state and criminal actors (Jácome 2008, Velasco 2009, Casillas 2011).

Organised crime groups seek monopoly control of all illicit goods and activities within their territory (Durán-Martínez 2018, Magaloni et al. 2020), and within this context, all people who migrate are viewed as merchandise and – above all – as potential victims (I(DH)EAS 2011: 97). In this sense, the rise in kidnappings and the involvement of organised crime is also inextricably linked to the development of people-smuggling

and the control of movements of this 'merchandise' (see Chapter 4). People-smugglers will pay dues to organised crime groups for safe passage through a territory and so those migrants who travel without people-smugglers are doubly unprotected: they travel without the protection bought from organised criminal groups, and they are marginalised and invisible to authorities (Pastrana et al. 2015).

The invisibility of transit migrants has been framed as a factor that both increases their vulnerability to human rights abuses during their journey and impedes their access to justice, thus feeding a cycle of abuse and impunity (Grant 2005, Boswell 2008). This invisibility is manufactured as migrants operate under the radar, fall under it or are forced beneath it. However, their invisibility is neither complete nor wholly successful as a protection strategy – migrants remain visible and identifiable to criminal groups and other migrants alike. Migrants' need to be invisible to state actors – so as to avoid detention and deportation – constrains their agency and forces them onto remote, marginalised routes and dangerous means of transport. This increases their risk of abuse and exploitation by both state and criminal actors, who prey on their vulnerability and operate with impunity (Boswell 2008, Jácome 2008, REDODEM 2014). Criminal groups leverage this impunity to invisibilise their own activities, with the invisibility of both victims and perpetrators enabling abuse to be enacted and replicated. Of course, there are also points where migrants are highly visible, such as at migrant shelters and migration detention centres. Just as invisibility may foster migrants' vulnerability, so too can their visibility at these points precipitate vulnerability, with migrants being recruited by gangs or 'marked' for kidnapping and trafficking by criminal organisations who operate outside and inside these facilities (Talsma 2012, Swanson et al. 2015).

Transit migrants suffer specific challenges in accessing justice, creating a profound layer of legal invisibility and fuelling cycles of impunity. As well as practical and psychosocial barriers to reporting abuse, there are additional obstacles to pursuing justice: notably the desire to continue the migration journey, fear of or actual deportation, and the actions of corrupt state agents. People may not want to or be able to remain in the transit state where the abuse occurred, preferring instead to continue to their destination (or indeed to return home) as quickly as possible. The transient and marginalised nature of transit migrants further estranges them from legal recourse and institutions: "The unauthorised become, in a sense, stateless or extrastatal, lacking recourse to either their country of citizenship or presence" (Coutin 2007: 103). The pursuit of legal recourse also carries a particular paradox for migrants of irregular status, who may fear that approaching the authorities will result in their

deportation. In reporting a crime, the migrant becomes visible; by coming into contact with the authorities, the migrant becomes irregular; they reveal their own 'illegality' by the very act of seeking recourse (Dauvergne 2008). Such reluctance to approach the authorities shows how agency is constrained by their irregular status. Ending this cycle "in which fear of detection prevents irregular migrants from reporting abuse, which in turn strengthens the hand of traffickers, smugglers and abusive employers, is at the heart of effective rights protection" (Grant 2005: 6).

Migrants may also face psychosocial barriers to accessing justice. Exposed to and commodified by some of the most violent criminal networks in the world, people may be reluctant to report crimes because of well-founded fears of reprisals against themselves or family members, both in their states of origin and destination. Certain crimes, such as sexual violence, human-trafficking, kidnapping and forced disappearance, are under-reported or difficult to investigate. Although many migrants are deterred from filing crime reports because of their irregular migratory status or fear of reprisals, even when reports are filed there is a lack of political will to investigate. Organised crime, in particular, takes advantage of migrants' invisibility before the law and of the very real obstacles that stand between them and justice.

These factors are compounded by state indifference and a corresponding refusal to accept the responsibility to investigate and prosecute criminal actors, due to the apparent invisibility of victims. Migrants' estrangement from state protection is caused not only by strategies to avoid state actors and by political indifference, but also by the lack of bonds with the state – namely, the state–citizen relationship. The absence of the state–citizen relationship between transit migrants and the transit state results in a lack of effective state protection and a lack of trust in state authorities. This aspect of vulnerability derives from social isolation, because "[t]ransmigration spaces do not generate bonds of identity of immigrants with the physical space through which they pass, hence in part the increased social vulnerability of illegal migrants" (Casillas 2011: 309).

Thus, vulnerability derives from numerous sources specific to the situation during transit and is critical in enabling and perpetuating insecurity during transit. Migrants' constrained agency, liminality and estrangement from the state, and marginalisation to the most dangerous paths, together with guaranteed impunity for perpetrators make this violence simply unavoidable, regularised and even expected by victims (Belén 2008: 11). Tightening migration controls does not produce the anticipated effect of a reduction in migration, because the dynamic nature of transit migration means that it fluxes and adapts to avoid controls. Such controls

do not stop migratory flows, but invariably increase migrants' vulnerability. In this way, "the constant passage of migrants and their complete vulnerability makes them an unlimited and un-punishable source of revenue for the criminal world" (Jácome 2008: 17). As migration controls extended throughout Mexico with the externalisation of US border policy under *Plan Frontera Sur* (the Southern Border Plan, see Chapter 1), effectively turning the entire country into a 'vertical border' (Knippen et al. 2015), this increased migrants' geographic vulnerability, as they were at now vulnerable throughout Mexico.

Violence against migrants in transit: abuse and its systematic nature

Prior to 2006, transit migration through Mexico was marked by the threat of state agents and indirect violence – that is, violence that does not have a perpetrator. Indirect violence during migratory transit derives predominantly from environmental factors, dangerous transport options and poverty. This manifests in many ways: from dehydration, hunger and illness to deaths in remote border zones; from suffocation in overcrowded or double-floored lorries used by people-smugglers; to injuries and deaths caused by falling from trains. As organised criminal gangs in Mexico became increasingly involved with the abuse of migrants in transit, the danger to migrants intensified. Transit migrants became a major source of income for state and non-state agents alike, with the biggest danger in transit being attacks by organised criminals, and reports testifying to "a 'tsunami' of violence affecting migrants" (Barrón et al. 2014: 22).

By 2010, the corridor between Central America and the USA had become the most violent passage for migrants anywhere in the world, with levels of violence since then so consistently high that even massacres of migrants have slipped into becoming just "anecdotes of tragedy" in Mexico (Pastrana et al. 2015). The widespread and systematic nature of violence committed by organised crime groups against transit migrants in Mexico has been documented extensively by human rights organisations and academics.[2] Recorded abuses of migrants include extortion, kidnapping, disappearances, murder, sexual violence, torture, forced labour, human trafficking and the massacre of dozens of people. Criminal groups developed a substantial extortion industry along the routes taken by undocumented migrants through Mexico, subjecting them to risk at every stage in their journey (Casillas 2011). Extortion of migrants happens in four main situations: as bribes demanded by state agents, as additional payments demanded by taxi and bus drivers, as dues or extortion (*piso*) demanded by criminal groups on the trains or in areas under their territorial control, and as

ransom payments in either express or mass kidnappings. Whereas a failure to pay a state agent could result in apprehension and deportation, a failure to pay dues to a criminal group could lead to violence, kidnap or being pushed off a moving train (Pastrana et al. 2015).

Coinciding with post-2001 migration controls, reports of 'express kidnapping' began emerging from different parts of the country, especially the southern areas (Casillas 2011, Hiemstra 2020). These kidnappings generally involved small groups of migrants being held for ransom payments, but this phenomenon rapidly spread, becoming more complex and more violent. The shift of modus operandi by criminal groups from express kidnappings of individuals or small groups to mass kidnappings of Central Americans after 2006 signalled the establishment of a new niche in the criminal market and marked a new level of involvement of organised crime in profiting from migrants (Casillas 2015, González 2013, Basok et al. 2015, Slack and Whiteford 2013, Slack 2015, 2019). In contrast to express kidnappings, mass kidnappings typically involve higher rates of physical and verbal abuse, weapons, higher ransom demands, as well as torture, extreme brutality, executions and forced involvement in organised crime activities. If captors fail to secure a ransom payment from a relative or if migrants attempt to escape, extreme violence and even murder may result (Meyer and Brewer 2010, González 2013, Slack 2015). Kidnapping of migrants is "provoked by the shared precarity of travelling in these clandestine spaces" (Slack 2015: 4), together with access to their family members in the USA who might have the means to pay ransoms of thousands of dollars, usually through international money transfer services. This potential for profit resulted in kidnapping becoming systematic. Increasing amounts of remittance money was being spent on securing the release of migrants or on protecting against abduction by using people-smugglers. In recent years, organised groups have kidnapped – and sometimes murdered – thousands of migrants throughout Mexico, and the number of victims is understood to be far higher than that accounted for in published figures.[3]

Despite government knowledge of the mass kidnappings, effective state measures to prevent them were completely absent. By the 2010s, hundreds of migrants were being taken from public spaces, including the forced removal of people from long-haul buses at roadblocks set up on the main motorways in Tamaulipas by the Zetas (Pastrana et al. 2015). As a result of the inaction of the Mexican government, the perpetrators of the kidnappings and massacres remained unpunished, enabling the violence to continue on a vast scale with near-complete impunity (Pastrana et al. 2015). Between 2006 and 2013, over 70,000 Central American migrants were reported missing in Mexico, but experts believe that the actual

figure for that seven-year period is nearer 120,000 (Sanchez Soler 2016a, 2016b). These disappearances are due to a number of factors: voluntary or involuntary loss of contact with one's family, imprisonment, enslavement, death by natural causes, and murder. Death during migration used to be primarily due to accidents involving the train or dehydration, exhaustion and heat stroke caused by the remote and arduous nature of the journey. After 2006, however, intentional homicide by organised crime groups became a significant cause of migrant deaths.

Intentional homicide of migrants happens both on an individual basis – often in the context of another criminal attack – and as mass murder during kidnappings or the 'confiscation' of the human cargo of people-smugglers who fail to pay the correct dues that permit passage through controlled territory (see Chapter 4). Bodies were buried in mass graves in areas that were inaccessible to authorities because of their remoteness or as a result of territorial control by organised crime. Survivors of kidnappings who witnessed murders reported methods by which the groups removed all trace of their victims, such as cutting their bodies into pieces and burning them or dissolving them in chemicals to produce fertiliser that is then spread on fields (Zamora 2011, EstrellaTV 2015). It is impossible to know exactly how many migrants have been murdered or disappeared by organised crime gangs in Mexico, due to the difficulties in confirming their deaths through the discovery and identification of their bodies. Other than the impossibility of doing so if bodies have been physically disposed of, investigations into these murders and mass executions were, and continue to be, prevented by a lack of political will and capacity on the part of the Mexican government and by the authorities' inability to access areas under the control of organised crime.

Other disappearances in the region were linked to human trafficking, including forced involvement in criminal groups, slavery, sexual exploitation and – according to anecdotal reports – organ harvesting. Because people tend to be held captive and isolated during trafficking, it is only at their release or escape that stories come to light, meaning they may be classed as missing or disappeared until this point. Survivors of forced labour have recounted being held captive and enslaved in labour camps, forced into prostitution or forced into organised crime activities, such as producing drugs and kidnapping other migrants. Female migrants remain particularly vulnerable to sex trafficking and commercial sexual exploitation, particularly in the southern border region of Mexico, where both Mexican and Central American criminal groups are involved in forced prostitution.

Just as women, girls and Central Americans from the LGBT+ community are adversely affected by gender-based and sexual violence related

to organised crime in their countries of origin, so too are they vulnerable to this during the transit stage of migration (Kuhner 2011, 2012, Winton 2016).[4] This manifests in a number of ways during the migration trajectory, with women and girls particularly vulnerable to sexual assault and rape, to being compelled to use sex as a form of economic exchange, and to sexual exploitation and trafficking.[5] Accurate statistics on sex crimes are impossible to obtain because they are widely under-reported due to social stigma as well as the fear of deportation and the desire to continue the migration journey. Such abuse is considered to be so widespread that the majority of female and transgender migrants reportedly experience rape or sexual assault during transit. Many Central American women are reported to take long-term contraception before travelling through Mexico, to protect themselves against pregnancy should they be raped. Women and girls are also forced to use their bodies to make payments for protection, transport and bribes during transit. State agents, members of criminal gangs, drivers, people-smugglers and fellow migrants demand these 'payments', which are directly linked to women's vulnerability and precarity during transit and their lack of access to regular transport options and financial resources (Amnesty International 2010, I(DH)EAS 2011, Dimmitt Gnam 2013, Dudley 2012, IACHR 2013, 2015, McIntyre 2014, UNHCR 2015). The primary perpetrators of all types of sexual abuse appeared to be organised criminal groups, supported by endemic impunity for their actions by ineffective, indifferent or corrupt authorities.[6]

Within the context of migration through Mexico, violence became not only a means to an end, but a message sent to rivals and to those who may not cooperate with a group's demands. This type of violence employed for "contingent reasons" (Gambetta 1996) is a feature of organised crime, and one of the defining elements in the modus operandi of Mexican organised crime groups. In parts of northeast Mexico, violent beatings and kidnappings are reportedly used to warn and deter migrants from passing through organised crime groups' established drug-smuggling routes, rather than as a means of financial gain. Commentators have drawn attention to the fact that there was only one survivor of the massacre of seventy-two migrants in Tamaulipas in 2010 (*las 72*), noting that this survivor was able to alert authorities to what had happened, leading to the discovery of the massacre. One theory holds that the survivor was deliberately allowed to escape so that the message would reach the people-smugglers who would then understand what would happen if they failed to comply with the demands of organised crime or pay the correct dues (Casillas 2010).[7] The bodies of about 1500 migrants were discovered in mass graves in the surrounding area the following year, indicating not only that mass murders are often committed but that extreme violence

may have been used to send a message of control in the case of *las 72* (Casillas 2010).

The situation in southern Mexico after *Plan Frontera Sur*

Following the implementation of *Plan Frontera Sur* in August 2014, there were significant changes in southern Mexico, where violence against migrants had risen to endemic levels. Because of the controls and restrictions that were put in place, migrants began using more remote and dangerous routes as they were forced to travel through zones controlled by criminal groups. Reports from organisations and the media indicate a marked increase in assaults, robbery and sexual assaults committed against migrants after the implementation of this legislation and, from 2015, an increased number of mass kidnappings. Reported assaults in Chiapas, for instance, increased by 264% within a year of *Plan Frontera Sur* being implemented (Isacson et al. 2015), with some organisations reporting that nine out of ten migrants passing through Mexico suffered some form of abuse (Natera 2015, 2016, Nazario 2015a).

The new criminal activity in southern Mexico has a systematic nature and tends to follow a particular modus operandi. According to reports, armed assailants lie in wait for migrants on marginalised routes before emerging to rob people. During robberies, assailants may strip people naked in order to find hidden money; at this point, many women are sexually assaulted. Witnesses have also spoken of areas beside the train tracks between Arriaga and Chahuites in southern Mexico where old mattresses are laid out for assailants to collect a 'rape tax' from female migrants.

MIGRANT AGENCY: SELF-PROTECTION STRATEGIES

Migrants adopt strategies both to avoid state authorities and to protect themselves from criminal actors. In response to heightened border control and in-country checkpoints, and to avoid state actors, migrants take increasingly isolated and marginal routes that are more geographically and environmentally challenging, which expose them to the inherent dangers of travelling in remote places (see, for example, Kimball 2007, Talsma 2012). Excluded from safe public-transport options, they may use unauthorised and dangerous modes of transportation, which pose great risk to their physical security and their lives and expose them to being targeted by criminal actors and corrupt state officials. Migrants may use informal identity strategies, such as adopting a 'Mexican' alias, using local slang or terminology, and wearing clean clothes purchased locally, to try to move in a discreet manner and to blend in with local populations. However, such methods are generally ineffective, and transit migrants are highly

conspicuous in local areas (Vogt 2013). Migrants more often opt for formal identity strategies, including voluntarily adopting false identity documents and destroying their own genuine identity documents (Grant 2011). However, the loss of identity documents may also be involuntary, as documents are often confiscated or stolen by people-smugglers or traffickers.

While migrant agency is constrained by the need to avoid state actors, which forces their use of marginalised routes, migrants also adopt tactics to protect from criminal abuse during transit. During the journey, migrants share information with each other about threats and dangers, using intersections on key routes and migrant shelters as 'information nodes' where such knowledge can be shared (Jácome 2008, Casillas 2011). They try to lessen risk by advising which routes to avoid, identifying criminal actors, learning codes that warn of danger and drawing maps to alert others of places where assailants lie in wait (Hernández 2015). To protect themselves during transit, many female migrants are also compelled to enter into 'relationships' with other migrants.

Migrants have historically made strategic use of people-smugglers (known as *coyotes* or *polleros*) to guide them through the physically challenging border crossings, and to assist them in avoiding border controls and state agents (see Chapter 4). However, migrants now had new reasons for using what were, in essence, paid-for-protection services – to avoid being kidnapped by organised crime groups. Indeed, contemporaneous research in El Salvador found that "the primary purpose of hiring a door-to-door coyote is not to evade border patrols, but to evade criminal violence" (Brigden 2015). Front-end people-smugglers must work with various criminal organisations and pay fees to ensure safe passage through the territory they control.

What is certain is that neither migration controls nor the risks during transit were or are effective at preventing people from leaving Northern Central America – a fact attested to by the ongoing flows of people out of the region and through Mexico. Although agency is constrained significantly, people respond to the context and adopt strategies to mitigate risk. These strategies are neither voluntarily adopted nor wholly beneficial to migrants. Furthermore, they result in increased vulnerability during transit, with the marginalised routes taken to avoid state agents often increasing risk from criminal actors.

Perpetrators, operational models and territorial control

Large Mexican criminal groups have been systematically involved with migration – both in the abuse and exploitation of migrants during transit and in people-smuggling – since 2006, when they hardened territorial

control and diversified their criminal portfolios. In the north of Mexico and the Gulf Coast, the (now fragmented) Zetas and the Gulf Cartel had been directly involved in mass kidnappings of migrants for several years, and this activity spread through Tabasco to the southern border with Guatemala. In southern Mexico, the direct involvement of organised crime groups was less clear in 2015, but many of the routes that migrants take are the same as those used by cartels for transporting drugs, although control of these routes changes and evolves. The Zetas were active in this area for some time and the presence of other groups, such as *Cártel Jalisco Nueva Generación*, had been detected by 2015. The involvement of various groups in different regions of the country has constantly evolved since this time, with numerous large organised groups battling each other for control of migrant routes near Mexico's southern border with Guatemala or exerting their dominance at the US–Mexico border. (For analysis of some of the different criminal groups and their involvement, see Dudley et al. 2023.) Their involvement also changed significantly after subsequent policy shocks, first in 2017 and then at the start of 2025 (which are discussed in the Conclusions and Reflections chapter).

The operational involvement of organised crime groups in the violence perpetrated against migrants in Mexico differs across regions but is inextricably linked to the model of territorial control. This means that migrants must pay to pass – either voluntarily through a people-smuggler or enforced through mass kidnappings and extortion – through particular areas controlled by criminal organisations. Some of these organisations are more business-like and interested in transactions while others are more predatory in nature. While some organised crime groups, such as the Zetas, were directly involved in conducting kidnappings, there were other criminal groups who paid a fee or *cuota* to conduct criminal activity in their territory. As well as having distinct criminal activities that they pursue in their own territory (including extortion, drug dealing and prostitution), organised crime groups can permit other groups to work there. As one interviewee explained: "You have to pay to be authorised to operate. You pay, you get protection. That's the cartel presence there."[8] They described business agreements, similar to franchises, concessions and sub-contracts to operate (see Introduction), that enable other criminal groups to conduct illicit activities targeted at migrants in areas under organised crime control. No matter who is physically perpetrating crimes in an area, large organised crime groups benefit financially from such activity, and their involvement must be seen from a perspective of territoriality.

Central American *maras* became involved in the abuse of migrants in southern Mexico in the decade to 2016, where both B-18 and MS-13

established cells. Ixtepec – where the *Albergue* is located – is a nucleus for MS-13. Experts I interviewed described complex relationships between the Mexican organised crime groups who control drug-smuggling routes in southern Mexico and other groups, such as Central American *maras* or local criminal gangs, as well as strategic alliances between the Zetas and the *maras*. Prior to *Plan Frontera Sur*, Central American *maras* were active in the area collecting the *piso* on the trains and providing enforcement, by kidnapping and extorting migrants travelling independently of people-smugglers. This activity was either controlled or authorised by Mexican organised crime groups. By the start of 2010, the presence of *maras* in Mexico was no longer limited to the opportunistic abuse of migrants or to the expansion of their activities or territorial reach. Since 2013, MS-13 and B-18 have sent gang members into Mexico to locate people who have fled gang persecution in Northern Central America and were now on their 'hit list'.[9] Gang members travel the usual migrant routes to catch certain people who have fled, and gangs also have 'sentinels' or 'posts' in specific places to detect them: "It depends on what you have done against the gangs. If they want to find you, they will".[10] This clearly has serious protection implications for those who have fled from these gangs, as they continue to be exposed to further risk from them while in Mexico.

The pattern of criminal attacks that emerged in southern Mexico after the implementation of *Plan Frontera Sur* comprised mainly armed robberies perpetrated by small groups of assailants. Ostensibly, links between the nature and perpetrators of the attacks and organised crime did not appear to be clear. However, while the perpetrators of many of these crimes were described as common criminals, such systematic criminal activity could not take place within territory controlled by organised crime without their authorisation and financial benefit. Any degree of organised crime control in Chiapas was denied by officials I interviewed, but contemporaneous media reports and several civil-society experts I spoke with attested to there being a significant organised crime presence in the region, that these groups were targeting migrants and that their presence was being fortified by new migration routes and impunity for crimes against migrants.

While there may not have been the same degree of territorial control and absence of effective state presence in Chiapas as there is in some other Mexican states, organised crime controlled several illicit activities in the region. These included the production, smuggling and local sale of drugs, extortion, human-trafficking, gun-running, sex-trafficking, prostitution and people-smuggling. Experts working with migrants in southern Mexico who I spoke with in 2015 expressed concern about the lack of response from the authorities and resulting impunity for these

crimes, noting that this could lead to a further worsening of the situation and a high risk that organised crime could take a stronger hold in southern Mexico. In addition, after the implementation of *Plan Frontera Sur*, researchers noted an increase in extortions by state agents, indicating that some agents are acting independently, while others act in collusion with organised crime groups (Mariscal and Truax 2015, Hiemstra 2019). In summary, the key beneficiaries of *Plan Frontera Sur* were corrupt officials and organised crime groups who enjoyed impunity as they exploited migrants (International Crisis Group 2016, Bonello 2016).

Organised crime groups use precise strategies and tactics to target migrants. A key tactic used by organised crime groups has been military-style investigation of migrants' movements and habits in order to target them effectively and infiltrate them at vulnerable points. Casillas (2011) describes the Zetas' meticulously planned and executed approach to monetising migrants by studying the migration route and habits of migrants and then leveraging the social fabric that transit migrants had relied upon to travel through Mexico. The Zetas used migrants' well-travelled routes, the train and migrant shelters to identify victims, learning about them by posing as migrants. Taking advantage of the fact that migrants travelled in groups, congregated at migrant shelters, often travelled together according to nationality, age or destination, and received wire transfers during transit, they were able to infiltrate and exploit these groups. Testimonies indicate the involvement of Central Americans in this approach, suggesting that they infiltrate the migrant flow to select and group migrants for kidnap and then deliver them to the armed groups. It is possible that such involvement could be forced, and that these people have themselves been kidnapped or trafficked. In all these processes, actual and threatened violence is used liberally and indiscriminately to ensure cooperation (Barrón et al. 2014, Casillas 2011, 2016b, Basok et al. 2015, Cantor 2014, 2016c). The other key element of organised crime groups' strategy was to co-opt or corrupt state agents, guaranteeing their active or passive compliance.

The state: impunity, corruption and collusion

The very fact that crimes against migrants have continued on such a large scale for so long "and with such broad public knowledge points to a great deal of collusion or at least tacit approval and impunity by state actors" (Slack 2015: 4). Indeed, impunity "has enhanced the activity of criminal agents and increased the radius of their actions, the diversification of their activities and the territorial diversification of their organisations" (Casillas 2011: 303). As well as the obstacles to justice outlined previously, there remained a significant lack of state response to the abuse at

all levels, which is rooted in a lack of political will and Mexico's decision not to take firm action.

Abuse continued to happen in specific places but, despite knowing this, the authorities failed to intervene in these places to stop the violence against transit migrants. There was also a failure to investigate and bring prosecutions in spite of the appointment of special prosecutors for crimes against migrants, and the granting of humanitarian visas to victims of crime. There was no change in government action in defence of migrants following the discovery of the mass murder of seventy-two migrants in San Fernando in 2010, as might be anticipated. Instead, by 2015, the situation appeared to have deteriorated further. The inertia of the state to respond and the absence of political will to intervene was described by one interviewee as a very deliberate move: "an intention to make the problem invisible".[11] Undeniably, impunity goes beyond the apathetic tolerance of violence on the part of the state, and instead acts as a facilitator of more acts of violence and enables the replication of unpunished crimes (see Chapter 5 for analysis of the implications of this under international law).

Corruption also plays a large role in enabling and perpetuating the situation, with criminal groups relying on being able to corrupt officials in order to successfully develop their networks and activities. Many testimonials documented by Amnesty International (2010) indicated that state actors were directly involved in abuse and that organised crime groups work in collusion with state actors or act with their acquiescence. Indeed, the coopting of state agents was a key part of organised crime groups' strategy to guarantee profits and impunity for their actions: they targeted key players and local commanders, using blackmail, threats and violence to ensure their compliance (Casillas 2015). Ultimately, it is impossible to separate completely the issue of impunity from those of corruption and collusion, and these blurred lines mean that there is often a lack of clear distinction between criminal violence and state violence (Vogt 2013).

Characterising violence during transit migration as structural violence

I adopt here Jácome's (2008) reading of structural violence that relies on Galtung's (1969) definition of structural violence as deriving from social, political and economic factors and manifesting as systematic harm experienced by certain people or groups because of underlying social structures. This structural and indirect violence, which has been "the norm rather than the exception" (Jácome 2008: 8) in transit migration through Mexico for many years, results directly from restrictive migration controls and would rationally be expected to increase proportionally

as migration controls are tightened. Jácome maps lines of accountability between indirect violence and social structures and policy, arguing that indirect and direct violence are intertwined during transit through Mexico and that the relationship between them is not wholly unidirectional. He argues that they derive from the same socio-economic factors and are linked on many levels, with indirect violence serving as the "'gatekeeper' for most forms of direct violence affecting migrants" (Jácome 2008: 8). On one level, these links are geographical, with the spaces associated with danger – specifically around the train route – nurturing criminal structures dedicated to exploiting migrants. On another level, they are political, with an official tolerance demonstrated by apathy and a lack of state response and protection (Knippen et al. 2015). Thus, even though direct violence has a perpetrator, it is "not incidental but a result of larger socio-political processes" (Jácome 2008: 30).

Tolerance of indirect violence is indicated by both its persistence and its development into structural violence, and it follows that this tolerance of indirect violence is mirrored by impunity for direct violence. As such, structural direct violence is marked by "the construction and prevalence of the impunity that characterises it, the systematic nature of its perpetration, and the social forces, policies, and institutions that perpetuate it" (Jácome 2008: 4). Jácome's self-confessed "unorthodox" reading of the situation of violence against migrants in Mexico as structural violence is key to understanding the dimensions and dynamics of the abuse. This is precisely because of these "underlying social, political, and economic structures that perpetuate this violence" (Jácome 2008:21) and marginalise migrants, reinforcing their vulnerability and their lack of access to justice during migratory transit.

Contextual factors that enable criminal abuse during transit

Vulnerability during transit is multidimensional, deriving from exposure to great risk, legal exclusion and social isolation. It exposes migrants to a triad of risks: the dangers inherent in their physical journeys, the risk of apprehension by migration authorities and the threat posed by organised criminal groups. Systemic risk from organised crime is now part of the transit portion of migration, adding to the state migration controls and enforcement activities, resulting in "an unofficial vertical border overlapping the [official one], tacitly blocking transit due to criminal groups that live off the exploitation of migrants" (Hernández 2015).

Teasing out the sources of this vulnerability helps us clarify the contextual factors in Mexico that enable organised crime groups to take advantage of migrants and for this to develop into a structural factor

during transit. Aspects of the state that contribute to this include an ineffective state presence, weak rule of law, lack of state protection and response, impunity, and corruptible state agents. Aspects of the journey that contribute to this include restrictive migration controls, the marginalised routes and clandestine nature of transit migrants' journeys, migrant agency exercised within the constraints of this context, and the pre-existence and tolerance of structural indirect violence during the transit portion of migration. Factors relating to organised crime include the presence of large criminal groups on key routes through Mexico and the dynamic and responsive nature (Paoli 2002, Medel and Thoumi 2014) of such groups.

The development of organised crime as a structural force during transit: morphogenetic analysis

This section examines how the threat of organised crime during transit evolved after 2006 and again after 2014, the ways in which direct violence against migrants was catalysed or manufactured by successive iterations of policy delivered in the presence of specific contextual factors, and the extent to which these consequences may have been foreseeable. First, it provides analysis that explains the role of restrictive migration controls and other government policy in the initial structural elaboration and in what way these policies acted as causal mechanisms. It then analyses the impact of introducing further restrictive migration controls after organised crime had established as a structural factor during migration transit.

Morphogenetic analysis is a useful tool to understand the elaborations of organised crime and migration, which each have dynamic natures that rapidly respond to external factors, because it can reveal the causal mechanisms behind this, such as time-specific events and extant contextual factors. Migrant flows change routes to avoid threat from both state and non-state actors, but these new routes themselves are more marginalised, and the risk from organised crime increases. Organised crime's dynamic and agile nature and its ability to react to changes without the constraints of bureaucracy or legality have allowed it to respond rapidly to state actions. It follows that "the violence along the route is not static, but constantly adapts to the trends and changes of the migrant flow, and responds to broader socio-political trends" (Jácome 2008: 25).

While undocumented migrants have always been at risk of abuse, the dangers to migrants passing through Mexico increased significantly in the mid-2000s and became inherently linked to organised crime. These changes led to more extreme violations of human rights for migrants in

Mexico, where risk became an intrinsic part of the aspiration and experience of leaving (Ruiz 2001: 282). This abuse of migrants is "not a desperate measure from organised crime [. . .] but a concrete expression of their capacity to develop, innovate and organise" (Casillas 2011: 309) with different actors across regions and countries. This section focuses on key points at which this threat to migrants from organised crime during transit changed and how organised crime used its "extraordinary capability to adapt to changing social and economic conditions" (Paoli 2002: 64), analysing the impact of policies that precipitated these changes in order to understand the causal process behind it and identify any potential state accountability.

First phase: organised crime evolves as structural factor in transit migration

The first change to be examined is the development of organised crime into a structural factor in transit migration. This evolution derives from policy changes which began in 2006, and analysis here examines to what extent the government crackdown on organised crime (dubbed the 'War on Drugs' or the 'Kingpin Strategy') acted as a causal mechanism of this change. Prior to 2006, some abuse of transit migrants in Mexico had been reported, but by 2008, much more extreme and extensive abuse of migrants was taking place. By 2010, the situation had changed dramatically, and organisations and academics were recording and reporting widespread and systematic abuse of migrants transiting Mexico by organised crime groups. Abuse has been extensively documented and, in 2010, Amnesty International deemed Mexico to be the most violent country in the world for transit migrants (Amnesty International 2010).

Increased migration controls after 2001 had resulted in more detention and deportation and led to migrants using more marginalised routes to avoid apprehension by state agents, hence increasing their vulnerability. However, factors unrelated to migration that altered the way that Mexican organised crime groups operated had the effect of refocusing some of their activities from 2006 onward. Indeed, in the context of transit migration through Mexico, the involvement of these groups is firmly related to "the evolution of crime, an evolution of criminal practices, and the emergence of new social actors into the criminal realm".[12]

Experts I interviewed agreed that the involvement of Mexican organised crime groups in the systematic abuse of transit migrants began in 2006 and was a direct result of the government's crackdown on organised crime. Prior to this time, a few large criminal groups dominated the Mexican criminal landscape in a fairly stable manner and with official

acquiescence (see Introduction). Migrants generally passed through Mexico relatively calmly, albeit with some small-scale extortion and kidnapping. The crackdown took the form of intense military intervention from the start of President Calderón's presidency in December 2006. The successful removal of cartel heads led to the fragmentation of groups, which in turn created a need for these smaller groups to broaden their portfolios and diversify into new income-generating activities, and to develop private militias to enforce criminal governance. Violent battles for territorial control between groups erupted as each group sought to consolidate its space and to maintain complete control over the business activities in its territory. At the same time that these policy changes were affecting the structure and activities of organised crime groups, internal changes within cartels were also affecting their operations, the most significant of these being the development of militarised arms and new revenue structures within the groups.

Following the crackdown, two key changes in organised crime activity occurred that were directly relevant to the involvement of organised criminal groups in migration activities: the expansion of criminal portfolios and the focus on territorial control. While groups continued to pursue their existing business activities – such as drug trafficking – they needed to open additional revenue streams, and exploiting transit migrants became part of their operations. Criminal activities related to migrants were attractive because there was a continuing flow of migrants, impunity for crimes against them, and migrant routes often overlapped with those of drug trafficking.

Other factors internal to organised crime groups also influenced the development at certain points, such as in 2010 when the Zetas officially split from the Gulf Cartel. They then began a programme of expansion, battled for territorial control, opened further revenue streams and formed allegiances with Central American *maras*. This led to an exponential rise in abuse of migrants by the Zetas and to this abuse becoming systematic. Impunity was a critical factor in making the targeting of migrants in transit a viable and profitable business activity for organised criminal groups and also to the abuse becoming systematic, because it allowed the acts to go unpunished and be replicated.

Hence, in this phase, the implementation of policy not related to migration (the crackdown under the 'War on Drugs') triggered critical changes in the structures of organised crime groups. Restrictive migration controls contributed to two further critical variables: they 'illegalised' migrants and they constrained migrants' agency, forcing them to take the most marginalised and dangerous transit routes. It is because of the undocumented and clandestine nature of their migration journeys that

migrants are made vulnerable and accessible to organised crime groups with control over tracts of territory. The co-presence of impunity was a critical factor in this process, enabling the replication of crimes and the establishment of an 'industry' of abuse. In summary, restrictive migration controls, in conjunction with impunity, contributed towards the development of organised crime as a structural factor during transit. In this elaboration, migration controls are contextual factors with indirect, rather than direct, causal properties.

Second phase: impact of new migration controls on criminal activity

The second change to be analysed is the impact of the implementation of *Plan Frontera Sur* on criminal violence in southern Mexico. The focus here is solely on the states in southern Mexico, because that is where most of the new, in-country migration controls were first put into operation, taking advantage of the narrowest part of Mexico and its proximity to the southern border. Experts I interviewed were unanimous that *Plan Frontera Sur* had had a negative effect on the human rights and security situation for migrants in southern Mexico. While this had led to increased threat from state agents and the use of more marginalised routes, those who were working on the ground in southern Mexico additionally spoke of its immediate and devastating consequences, which included huge increases in criminal violence and a worsened situation regarding human rights. It was clear that the implementation of these new in-country migration controls led to migrants facing intense danger from criminal actors in the south, as well as increased risk from state actors: "*Plan Frontera Sur* is the perfect plan for extortion, violence and crime".[13]

At the point of *Plan Frontera Sur* being implemented in August 2014, organised crime had already established itself as a structural force on the transit portion of the migration journey through Mexico, and the abuse of migrants had become widespread and systematic. Not only was abuse rife, but it was met with near complete impunity. Thus, it was implemented in a context that was different from how it had been previously, with the pre-existence and tolerance of structural direct violence as well as indirect violence during the transit portion of migration. After the implementation of the policy, migrant agency was constrained by the restrictive controls in southern Mexico. This increased migrants' vulnerability by impeding access to both road and rail transport and forcing them onto more marginalised and isolated routes. Migrants now had to walk longer distances, avoid population centres where specialist services were established and make diversions to avoid migration checkpoints. However, agency was

not constrained to the extent that they did not migrate, and the constant flow of migrants continued. As well as persecution by migration agents while suffering from the physical difficulty of their journey, migrants were routinely assaulted, robbed and raped along the way by assailants who lay in wait. Staff I interviewed in migrant shelters told me that after the implementation of in-country migration controls and restrictions on transport options under *Plan Frontera Sur*, there was a marked increase in violent attacks on migrants in southern Mexico.

While some contemporaneous reports indicated that the Zetas were responsible for criminal activity against migrants in the state of Tabasco and the east of Chiapas, it appeared to be primarily local gangs who were perpetrating the offences in Oaxaca and the rest of Chiapas. The perpetrators would lay in wait on isolated rural routes and ambush migrants as they made diversions around migration checkpoints. While these attacks may have started opportunistically, such sustained activity could not take place in areas controlled by organised crime without authorisation and financial benefit through the payment of dues. There were varying degrees of organised crime presence in the southern states of Mexico, with some local criminal groups operating in territory controlled by large organised crime groups under some of the models described previously, such as franchises, contracts or concessions. Given the known control of the migratory routes by organised crime groups prior to this (notably *maras* conducting migrant-related activities under the authorisation of the Zetas), whatever systematic criminal activities are being conducted in the area will be subject to this same authorisation and level of control, regardless of the perpetrators.

As such, these changes are not so much structural changes, but rather an elaboration of the activities and modus operandi of organised crime in the region. Criminal entities reacted dynamically, quickly adopting operating models that better suited the different environment. The implementation of restrictive in-country migration controls has been the direct causal mechanism for this, leading to the elaboration of criminal activities and operating models (rather than the elaboration of a structural factor as was seen previously).

The causal role of policy

From this analysis, we can see that restrictive migration controls acted as a contextual factor in the development of organised crime as a structural factor in transit migration. However, once such a structural force is established, the introduction of more restrictive migration controls results in rapid changes to criminal activities on the ground: a markedly different

form of structural elaboration. As a framework designed to analyse change, the morphogenetic approach allows for subsequent elaborations of a situation to be analysed, accommodating the change that occurred in previous elaborations and capturing the nature of subsequent changes.

This is particularly useful for analysing the changes that occurred following the implementation of policy – notably, *Plan Frontera Sur* – and for generating explanations of the different causal roles of migration controls in each context. This analysis allows us to see that after organised crime is established during transit, the implementation of migration controls acts as a catalyst to change or increase criminal activity during the transit portion of migration. Such insight is critical when developing and implementing policy in areas affected by weak rule of law, corruption and/or organised crime, and in anticipating the consequences of policy change. Two factors exposed by this analysis have implications for our understanding of state accountability (see Chapter 5). Firstly, understanding the direct or indirect causal properties of both policy and contextual factors – such as impunity – enables us to trace lines of state accountability. Secondly, if such adverse consequences are foreseeable, or even anticipated, this raises salient questions about state accountability.

Criminal abuse, policy-driven harm and the role of the state

People continue to migrate despite the risks during transit but, paradoxically, this agency itself enables the perpetuation of systematic abuse. The continuing flow of migrants provided organised crime groups with an ongoing opportunity for economic exploitation, and their general patterns of travel (their agency exercised within the limited options available) made them easy to access and led to criminal groups being able to develop strategies to target them. Within the context of migration, analysis of structural elaboration as system feedback from agency has typically addressed state responses, social systems and the development of networks (see, for instance, Wolfel 2005). The development of organised crime as a threat during transit follows this pattern – albeit with a range of specific structural and contextual factors – and reflects processes of elaboration following events that were both external to and internal to organised crime groups (see, for example, Medel and Thoumi 2014, Trejo and Ley 2020).

Although it could be argued that an increase in organised crime's involvement in migration-related activities is an "unintended consequence"

of increased migration control (Cornelius 2001, 2004, Cornelius et al. 2004, Czaika and De Haas 2016, Schmoll 2016), in the region-specific context – one of corruption, impunity and organised crime – this is not in any way unforeseeable. My analysis here offers insight into the nature and interplay of causal mechanisms, enabling a better understanding of both direct and indirect causality. This is critical because in order to be able to examine policy within the broader debate on unintended or adverse consequences (or indeed foreseeable side-effects), we must first understand its capacity as either a direct or indirect causal mechanism. Framing direct violence against migrants in transit as structural violence allows us to see a clear link of causality via the pre-existence of indirect structural violence. Tolerance of such indirect violence during transit by the authorities has enabled it to act as a gatekeeper for direct violence, and impunity for abuse has facilitated its replication, its widespread growth and its systemisation. It follows that increased involvement of organised crime and direct violence were not only consequences of this but were as foreseeable as the attendant increase of indirect violence.

When we consider this situation as one of structural violence, we can draw parallels between responsibility for knowingly implementing policy that provokes indirect violence and policy that provokes direct violence, allowing similar lines of accountability for direct violence to be traced. This should be interpreted in the same context that concludes that the deaths of transit migrants are a form of structural violence, and as such are "state crimes" (Weber and Pickering 2011, Michalowski and Hardy 2014). Commentators (Grant 2011, Weber and Pickering 2011, Slack and Whiteford 2013, Michalowski and Hardy 2014) have noted some previous official acknowledgement that tightening migration controls causes foreseeable – and even intentional – increases in indirect violence. Weber and Pickering (2011) analyse the role of state action in indirect violence (specifically border deaths), also touching briefly on direct violence, demonstrating lines of accountability for policy-produced deaths, and emphasising that policies which allowed such violence were implemented with the knowledge of possible unintended consequences. We can reason that the evolution of both indirect and direct structural violence during transit was not so much the unintended consequence of migration control, but *collateral damage*. This exposes questions about state accountability, which are deliberated in Chapter 5. Both this point and the broader findings generated through applying this analytic framework are relevant to our understanding of the adverse consequences that were borne by subsequent iterations of externalisation tools and restrictive migration policies – including Migrant Protection Protocols

(known as 'Remain in Mexico') and Title 42 – and I reflect on these in the Conclusions and Reflections chapter at the end of this book.

Notes

1. While criminal actors are not the sole threat to migrants during transit, and many studies document the role of state actors in the abuse of transit migrants (see, for instance, Knippen et al. 2015, Amnesty International 2010), this chapter will only look at organised crime's involvement in such abuse and will examine the actions of state actors in relation to this, rather than any independent and direct role they may have in abuse.

2. For example: Jácome 2008, Velasco 2009, Castillo Garcia 2010, Ángeles Cruz 2010, Amnesty International 2010, Casillas 2011, 2016b, I(DH)EAS 2011, Kuhner 2011, Dudley 2012, REDODEM 2014, Slack 2015, Isacson et al. 2015, International Crisis Group 2016.

3. The Mexican government does not publish official statistics on migrant kidnappings, but the National Human Rights Commission (CNDH) reported more than 11,000 abductions of migrants between April and September 2010 (Villegas 2014).

4. Sexual abuse and rape will be discussed from a gender perspective. Men are also reported to be subject to sexual violence and rape but reports of this appear to be limited to situations of detention and torture by organised criminal groups during kidnapping and extortion. That is not to say that it is confined to this, but that there is scant data to demonstrate that this is a widespread threat for male transit migrants outside of such situations, or that it is perpetrated because of their gender. The only testimonies detailing male rape that appear to be publicly available are witness testimonies from kidnappings gathered by Meyer and Brewer (2010). However, this lack of victim testimony could also reflect the extreme stigma of such crimes, as well as the more general barriers to reporting crimes experienced by transit migrants.

5. See Kuhner (2011) for analysis of the different forms of sexual exploitation.

6. Between 2008 and 2011 there was not a single conviction for the rape or sexual assault of transit migrants in Mexico or for sex trafficking (O'Connor 2011, Ramsey 2011, IACHR 2013).

7. Academic researcher, Mexico City, 1 October 2015.

8. Investigative journalist, Mexico City, 27 November 2015.

9. While conducting fieldwork at the *Albergue*, I witnessed a group of young men who had fled *maras* in El Salvador. A few hours after their arrival, three *maras*, including a leader, arrived in pursuit.

10. Investigative journalist, Mexico City, 27 November 2015.

11. Academic researcher, Mexico City, 1 October 2015.

12. Director, humanitarian organisation, Tapachula, 19 October 2015.

13. Representative of a civil society organisation, Chahuites, Oax., Mexico, 24 October 2015.

Chapter 4

People-smuggling through Mexico and the role of organised crime and corruption

This chapter examines the evolution of organised crime's role in the facilitation of migration journeys in the region, looking at how people-smuggling developed at the start of the twenty-first century from what was chiefly community-based *coyotaje*[1] into a substantial criminal industry. The development of the threat from organised crime groups into a structural factor during transit migration in Mexico led to major changes in the dynamics of people-smuggling in the region. The shift towards territorial control as a revenue-generating model for large organised crime groups changed the nature of people-smuggling operations in the region, forcing people-smugglers to pay to pass through territory under control of criminal organisations with extreme violence against those who did not pay – essentially a protection racket. This chapter shows how the dynamics of people-smuggling in the region changed as a result of increased migration controls and analyses the evolving role of organised crime in facilitating migrant journeys and the implications of this for the state.

Morphogenetic analysis demonstrates how the nature and operations of people-smugglers respond agilely to the imposition of migration controls, and how this has strengthened organised crime's involvement while, parallel to this, corruption and collusion weaken state integrity. It also shows how migrant agency was constrained after the implementation of *Plan Frontera Sur* (the Southern Border Plan), drawing on fieldwork interviews to understand some of the challenges that began to affect migrants' travelling choices. In doing so, my analysis reveals the transforming properties of agency by demonstrating how migrant agency

led to structural elaboration – specifically the implementation of *Plan Frontera Sur* – and how migrants and people-smuggling operations subsequently reacted.

The findings are then considered in relation to Kyle and Dale's (2011) argument that policy delivered prior to 2001 was deliberately intended to move people-smuggling in the region away from small-scale operations towards "institutional human smuggling" controlled by criminal syndicates (Kyle and Dale 2011: 35), examining the extent to which the consequences of subsequent policy were likely foreseeable and the implications of increased corruption related to people-smuggling. Lastly, it connects with the broader debate on the adverse consequences of migration control on people-smuggling, extending this by arguing that migration policy externalised from the destination state can have consequences that are detrimental to the transit state, when implemented in the context of extant people-smuggling and related corruption.

Conceptualising people-smuggling

Contemporary understanding of people-smuggling has progressed past previous conceptualisations that, while providing valuable insight into the business models of people-smuggling operations, had an overwhelmingly structural focus (for example, Salt and Stein 1997). This had presented some conceptual limitations, by explaining "the scope and nature of smuggling within typical narratives of gangs, mafias and ethnic syndicates, or defining smugglers' actions along narratives of victimisation, sexual violence or financial exploitation" (Sanchez 2015: 31). Similarly unhelpful are the typical official narratives and media rhetoric that position people-smugglers as criminals who operate in a highly organised manner under a central command, and who are increasingly transnational in nature and invariably exploit their clients. Such narratives are problematic because they do not allow for evaluation of migrant agency or for the evolution of operations in response to increased migration controls or emerging displacement crises. They also fail to address the roles of states and policy in creating and perpetuating people-smuggling (Kyle and Dale 2011, Sanchez 2015).

Agency plays a critical role in people-smuggling and in navigating the "series of complicated, interconnected circumstances" (Sanchez 2015: 26) that drive migration and shape decisions, based on careful consideration of all available options and resources (Van Liempt and Doomernik 2006, Spener 2011, Sanchez 2009, 2015). People with potential international protection needs also adopt similar decision-making with

regard to the use of people-smugglers before deciding to flee their country (Robinson and Segrott 2002). The smuggling of minors is more complex, exposing tensions between protection and security and raising questions about minors' capacity to consent and, therefore, whether they are demonstrating agency (Baird 2013). Although commentators have noted the collaborative nature of people-smuggling and the dynamic, symbiotic relationship between migrants and people-smugglers, they caution that the imbalances of power between them have the potential to lead to abuse during transit (Van Liempt and Doomernik 2006, Sanchez 2015). In this respect, a migrant-centric approach also fails to bring genuine understanding to the broader dynamics of people-smuggling entities and operations.

Restrictive immigration policies, together with the inability of states to seal their borders completely, result in "an enormous illicit market for organised criminals to exploit" (Moses 2006: 163). It follows that irregular migration is intrinsically connected to increases in people-smuggling. The migration industry that develops as "an inevitable aspect and an extension of the social networks and transactional linkages which are part of the migratory process" (Castles et al. 2014: 235) can lead to exploitative practices, including the rise of criminal organisations dedicated to smuggling and trafficking migrants (Wickramasekara 2009, Castles et al. 2014). People-smuggling can also further aggravate the efficacy gap in policy, where objectives are not met because people-smugglers are able to facilitate unauthorised border crossings. Typically, academic discussion about why gaps occur tends to be at macro level, rather than looking in detail at the impact of migrant agency on policy effectiveness and efficacy gaps, although commentators (for example, Castles 2004, 2010) note that this is an issue – indeed, the continued exercise of agency in spite of deterrent policy denotes its failure. This is particularly pertinent in the case of forced migration, where agency must be exercised despite attempts to curb it through migration controls and policy.

Some analyses have focused on the unintended consequences of migration control on people-smuggling (Van Liempt and Doomernik 2006, Andreas 2011, Kyle and Dale 2011, Doomernik 2013). Commentators note that "state interventions are likely to have considerable impact on the actions of human smugglers; as a result, they may reorganise their routes and destinations, and the economics of smuggling too are likely to be affected" (Van Liempt and Doomernik 2006: 185). As well as having "devastating humanitarian consequences" in terms of increased structural violence and deaths of transit migrants, restrictive controls at the US–Mexico border also had "a significant, if often neglected consequence: they ultimately fuelled the development of the local human

smuggling market" (Sanchez 2015: 41). Indeed, it is clear that "politics, not just economics and criminality, creates professional human smugglers on the scale we are witnessing today . . . [reflecting the] multiple ways in which States make smuggling and smuggling (re)makes States" (Kyle and Koslowski 2011: 16–17).

Kyle and Dale (2011) further develop this strand of the debate, arguing that mid-1990s border policies – far from having the type of unintended consequences outlined by Andreas (2001, 2011) – were planned and implemented to deliberately change small-scale people-smuggling into an industry controlled by organised crime. The reasoning behind this is that law enforcement is better equipped to tackle a few large organisations than numerous individuals and small groups. Their research showed that US government representatives not only agreed that there was a "positive correlation between the United States' enforcement actions along the border and the recent increase in the scope and profitability of professional smuggling . . . but hint[ed] that this was the plan all along" (Kyle and Dale 2011: 34). Their further reasoning for state complicity in driving this change touches on deeper economic and political complexities and includes its usefulness in political rhetoric. For instance, discourse on the victimhood of smuggled people is a useful tool in rhetoric, as this one-dimensional presentation of migrants draws away from their agency and human qualities.

Commentators have highlighted the need for a more multidisciplinary and coherent approach that is able to capture the responsive nature of both structure and agency (Baird 2013, Sanchez 2015). My analysis here addresses this by examining change and developments from the dual perspectives of both agency and structure. It also feeds into the debate on people-smuggling as an 'unintended consequence' of migration control (for example, Cornelius et al. 2004, Czaika and De Haas 2013, 2016, Schmoll 2016), although it frames these more objectively as 'adverse consequences'. It advances the emerging strands of this debate that argue that such consequences may be to some degree intentional or anticipated (Andreas 2011, Kyle and Dale 2011, Kyle and Koslowski 2011, Doomernik 2013, Sanchez 2015), by demonstrating that the consequences of recent migration policy within the contemporaneous environment of systemic corruption would have likely been foreseeable, and the policy implemented with awareness of this.

While there is acknowledgement that the nature of people-smuggling has evolved in response to specific regional dynamics, there appears to be scant analysis of how it has developed from a structure–agency perspective. Morphogenetic analysis is a particularly useful tool for understanding the dynamics of people-smuggling on a global as well as

regional level. Whereas large-scale mobility caused by criminal violence and the threat from organised crime during transit are aspects of organised crime's involvement in migration that are quite specific to the region, organised crime's involvement in people-smuggling has broader global relevance, both in terms of transcontinental people-smuggling and of the potential for comparative regional analysis.

People-smuggling and state integrity

The increasing links between organised crime and people-smuggling on a global as well as regional level pose a great threat to state integrity (Pickering 2011). Indeed, the Mexican government considered migration as one of the nation's biggest security risks because of uncontrolled flows and the porosity of the southern border, as well as corruption and infiltration by organised crime (Flores 2016). However, the negative impact on state integrity goes beyond the compromising of state sovereignty when borders are crossed in an irregular manner. Organised crime requires, at minimum, state complicity in order to operate successfully, and this complicity – from omission to collusion to corruption – has a subsequent impact on the rule of law and, thus, the potential to compromise the human rights situation of people within the state.

While people-smuggling may not necessarily violate people's rights directly, it can lead to a broader situation of insufficient or ineffective state protection and authority. As criminal groups take increasing control of and profits from people-smuggling, there is a strengthening of organised crime and, at the same time, a weakening of state integrity. This weakening is not entirely parallel, however: while state authorities may be corrupted by or collude with organised crime actors in the facilitation of people-smuggling, they also act distinctly and independently of organised crime, accepting payments to allow passage. Challenges to state integrity thus derive in a direct manner from the participation of corrupt authorities in people-smuggling, and in an indirect manner from their complicity with organised crime.

Given time and a lack of appropriate response by authorities, this corruption becomes "institutionalised and sustained" (Sandoval 2013: 217). Furthermore, such levels of corruption then become socially accepted within communities in migrants' countries of origin "because they make it possible to avoid legal restrictions that would otherwise limit the mobility of migrants" (Sandoval 2013: 221). People-smuggling is not just a straightforward violation of state rules through enabling extra-legal border crossings, but requires corruption and complicity that undermines both state integrity and trust in the authorities. Thus, it damages the state

through corruption, and this damage is further multiplied and sustained by impunity for this corruption.

People-smuggling and organised crime in Mexico and Central America

People-smuggling in the region is not a new phenomenon, but between 2001 and 2016 it underwent a complete transformation in terms of operations and control. *Coyotaje* has historically had a particular social role in the region, but between this period, operations moved away from this traditional form of people-smuggling to become a large industry controlled by organised crime (Andreas 2011, Casillas 2011). At the same time, more restrictive US migration controls from 2001 led to a greater reliance by migrants on people-smugglers to undertake the migration journey, and increased costs to the migrants. This change has been framed as the 'unintended consequence' of migration controls, because such controls make migrants more likely to use people-smugglers (Cornelius et al. 2004, Andreas 2011). Kyle and Dale (2011), however, argue that this consolidation of people-smuggling services was a deliberate aim of the migration policy. By 2010, an estimated 90% of people crossing the US–Mexico border in an unauthorised manner were engaging the services of people-smugglers for some part of their journey, and the industry in Mexico was estimated to be worth approximately US $6.6billion (UNODC 2010).

New dynamics emerged as traditional *coyotaje*, or individual people-smugglers, were displaced by large operating networks that were increasingly controlled by organised criminal groups, and people were compelled to use people-smugglers to avoid the threat of organised crime during transit. The fragmentation of organised crime groups in Mexico after 2006 resulted in these groups diversifying their criminal portfolios and adopting operating models of territorial control, thus becoming a structural force in the transit portion of migration journeys through Mexico. This development, in turn, constrained migrant agency, with people then forced to use increasingly expensive people-smuggling services to evade the systematic threat of violence posed by organised crime during transit, as well as to avoid state agents and cross borders in an irregular manner.

In addition to their previous reasons for using people-smugglers – namely to avoid state actors or to navigate isolated border areas – migrants began using these services to evade the threat of organised crime. This resulted in people-smuggling in the region no longer being just a service for those with no legal migration route but becoming an organised

crime protection racket (Brigden 2015, 2016, Frank-Vitale 2023). Further, as the demographic profile of people fleeing Central America changed (see Chapter 1), so too did the demand for people-smuggling services for vulnerable people, such as women and children. However, agency is also transforming and can lead to structural elaboration in the form of increased migration controls in response to people arriving after travelling with people-smugglers, which can, in turn, result in a greater reliance on people-smuggling services because of these controls.

People-smuggling in the region: its role and evolution 2000–15

For decades, people-smugglers – known regionally as *polleros*, *coyotes* and *guías* – have been firmly established within the social fabric of migrant-sending communities in the region (Andreas 2011, Pickering 2011, Kyle and Koslowski 2011, Izcara Palacios 2014, Sanchez 2015).[2] People-smugglers were service providers for communities with high levels of out-migration and a lack of legitimate travel options, and they held a reputation that depended on trust. People historically engaged these small, independent operators to guide them across the US border and help them to avoid border controls and state agents.

Traditional *coyotaje* has been largely displaced by criminal organisations that have extended their activities to people-smuggling. Formerly acting as individual agents and service providers, frontline people-smugglers became increasingly influenced and controlled by organised criminal groups and were obliged to operate in larger networks with higher costs (Andreas 2011, Casillas 2011, Spener 2011, González 2013). The underlying factors in this shift were the post-2001 tightening of US border control, the fragmentation of large organised crime groups from 2006, and the remaining and emerging groups' focus on a strategy of territorial control (Andreas 2011, Casillas 2011, Slack and Whiteford 2013, Riesenfeld 2015, Brigden 2016). As a result, rather than using people-smugglers solely to evade border control, Central Americans now needed to use these services to navigate this criminal landscape, engaging people-smugglers for their knowledge about which actors to pay to cross Mexico successfully (Casillas 2011, Brigden 2016).

Women, children, elderly people and family groups are more likely than others to rely on people-smuggling services (López Castro 1998, Albaladejo 2016). Typically, people purchase people-smuggling packages that, dependent on cost, may include transport, accommodation, food and door-to-door delivery, as well as between three and six attempts at reaching the USA. People would usually pay half the costs prior to departure

and half on successful arrival at their destination, often relying on family or friends in the USA to finance the journey. Modern operators make use of technology such as mobile phones to facilitate journeys, enabling them to coordinate the stages of the passage remotely (Stargardter and Zengerle 2014). In recent years, people-smuggling operations have become increasingly sophisticated, with operators issuing colour-coded wristbands to indicate the smuggling group involved and the level of services that people have purchased as they travel through Mexico and cross the border. This sophistication indicates high levels of management, efficiency and tracking processes.

Criminal actors involved in people-smuggling

There are three key actors in the criminal landscape that people-smugglers must navigate in order to operate: street gangs, large criminal organisations and corrupt state officials (Dudley 2011, 2012, 2016a, UNODC 2012, Brigden 2016). From 2006, several of Mexico's large organised crime groups became involved with people-smuggling in diverse ways, notably: charging dues known as *piso* for migrants to pass through the areas over which they have territorial control; direct involvement in people-smuggling operations; and displacing people-smugglers to take over their businesses (Casillas 2011, Dudley 2012, Beittel 2015).

The territorial business model of these criminal organisations in Mexico (commonly known as cartels) means they must control all criminal activity and illicit goods in their territory or authorise and receive financial benefit from these. As a result, people-smugglers must pay dues to pass safely through each organised crime group's territorial areas of control. If they don't pay, the organised crime groups will kidnap or kill their 'cargo': "The message was clear: if they didn't pay for the passage of the merchandise, there was no merchandise, that's to say, no business" (Casillas 2011: 151). In disputed areas, people-smugglers must confirm who currently controls the area and so pay *piso* to the appropriate criminal group. This is a difficult task in areas where large criminal groups battle for control, as territorial control can shift rapidly. A people-smuggler who fails to pay the correct dues to the correct controlling group puts at risk the liberty or lives of the migrants they are transporting (Dudley 2011, 2012). Some of the large organised crime groups are more business-like in their approach and collect fees using the omnipresent threat of violence. Others are more predatory and willing to use violence for enforcement, punishment and contingent reasons (see Chapter 3). The involvement of street gangs (often Central American *maras*) varies across Mexico, although they appeared to be controlled by the large criminal groups.

The groups contract their services as informants and enforcers in a protection–extortion racket, and the *maras* then forcibly collect or extort *piso* from those travelling without people-smugglers, often on top of trains.

State agents are also heavily involved in enabling the illicit movement of people, whether through coercion, corruption or collusion. People-smuggling often requires corruption of public officials in order to succeed, producing both passive and active forms of corruption as "transactions and extortions" (Sandoval 2013: 221). It varies as to whether the involvement of state agents is voluntary or involuntary. Experts I interviewed said that it is difficult to ascertain whether agents of state institutions in Mexico, such as the police, are acting autonomously or whether they have been so contaminated by organised crime that they have no independent authority over their actions. Certainly, as well as corrupt state officials receiving bribes independently, there is a great deal of collusion between corrupt authorities (including immigration agents and the now-defunct Federal Police), large criminal groups, *maras* and local gangs.

Just as there has been some difference of opinion about the involvement of organised crime in people-smuggling on a global level (see Baird 2013), there was some debate about the extent of organised crime's involvement in the operational side of people-smuggling in the region. This is because there appear to have been different models operating concurrently, all with varying degrees of direct involvement of organised crime groups, although these people-smuggling models are generally defined by hierarchical structure and territorial control. This manifested as a network of transporters, with high-level organised crime authorising or directing front-end activity according to the involvement of the specific group. Within this hierarchy, there are many different actors providing a variety of services. With a layer of front-end contacts to recruit, transport and accommodate migrants and an invisible layer that handles organisation and finances, the front-end smugglers may not even know who they are ultimately working for (Casillas 2011, 2016a, 2016b). The most sophisticated people-smuggling networks have become even more hierarchical, with a top layer of leadership that has developed business relationships with transcontinental networks (Barrón et al. 2014). The use of mobile technology to coordinate people-smuggling remotely provides layers of protection to the senior levels of the operation against identification and apprehension, while leaving the front-end transporters vulnerable to law enforcement. This poses significant challenges to any efforts by law enforcement to disrupt people-smuggling operations in a meaningful manner.

Some commentators (for instance, Izcara Palacios 2014, 2022, Sanchez 2015, Hiemstra 2019) claim that organised crime groups were not involved

in facilitating migrant journeys in this region prior to 2015, but were only financially involved with people-smuggling. This took the form of charging *piso* to the people-smugglers to pass through their territory and kidnapping and extorting groups of migrants, sometimes contracting out this enforcement work to other criminal actors. Their rationale for this is two-fold. Firstly, people-smuggling does not offer immediate profits without some investment, whereas people-smugglers can be charged dues for passing through 'territories' without any such investment. Secondly, migrants engage people-smugglers based on trust, which organised crime groups cannot offer (Kyle and Koslowski 2011, Izcara Palacios 2014). Researchers argued that organised crime groups did not engage in the facilitation of migrant journeys because collecting *piso* from migrants in transit yields immediate revenue, without requiring a significant investment of time and effort, and "what interests them is making a profit from ransom payments, not providing a service to migrants" (Izcara Palacios 2014: 335).

In contrast, other studies, along with experts I interviewed, indicated that there were varied operational models and claimed that some organised criminal groups in Mexico were providing people-smuggling as part of their portfolio of activities, with certain groups finding it a more important revenue source than drug trafficking. State intelligence agencies reported that in addition to charging *piso*, the Sinaloa Cartel actively controlled people-smugglers in northwest Mexico. While just three or four cells were operating most of the people-smuggling in this region, investigators found more direct control and even participation by the Sinaloa Cartel. This was particularly so in transcontinental people-smuggling, with the Sinaloa Cartel and the Chinese mafia working together, and similar links with associates in Brazil (Slack and Whiteford 2013, Zeta 2015). Indeed, the large increases in the volume of migrants arriving in Mexico from Asia and Africa in the mid-2010s indicated that such transcontinental people-smuggling was becoming a significant growth area (Sanchez 2016).

What is clear is that both front-end people-smugglers and organised criminal groups financially benefited from people-smuggling, but that their roles were quite distinct at operational level; as previously stated, the primary role of organised crime groups in the facilitation of migration has been territorial control and the violently enforced collection of dues. Just as the criminal landscape in Mexico is subject to constant flux, so too is it likely that business models and involvement are constantly revised and improved upon. Criminal groups are dynamic and are able to respond quickly and opportunistically to changes in the environment, and people-smugglers are generally flexible and willing to work

with different groups in order to maintain the movement of their clients (Castillo and Sherman 2014).

It has been well documented that people-smuggling can develop into situations of human-trafficking, adversely affecting human rights. There are four key links between people-smuggling and trafficking in Mexico, aggravated by the involvement of large criminal groups. Firstly, when migrants are kidnapped by organised crime groups during transit, those without funds to secure their release may be sold into modern forms of slavery or forced to work for the criminal groups (Casillas 2011, Le Goff and Weiss 2011, Zamora 2011). Secondly, some people-smugglers working in the region have sold their 'charges' to organised criminal groups who then force them into modern slavery, although it is not clear if these are isolated incidents (Dudley 2012). Thirdly, traffickers posing as people-smugglers recruit people in their hometowns or in border areas using lies and manipulation, taking advantage of their vulnerability and irregular status (Le Goff and Weiss 2011). Lastly, these movements of people are often conducted by the same operators, meaning that it is "difficult to disentangle the processes of human smuggling from those of human trafficking because these processes are generally handled by networks of intermediaries rather than end to end by the same individual or organisation" (Kyle and Koslowski 2011: 5). While acknowledging the blurred lines between these activities in the region, some commentators caution that uncritically conflating them serves states' purposes and obscures their own role in creating and perpetuating people-smuggling. Conversely, states may "appropriate images and narratives of trafficking victims, as well as of smuggling villains, to justify stricter migration controls" (Brigden 2016).

By 2015, migrants' reasons for using people-smugglers had changed, and people-smugglers were increasingly being used as paid-for-protection from organised crime during transit, as well as to avoid detection by state agents (Izcara Palacios 2022, Hiemstra 2019). Brigden's research found that, for Salvadorans, "the primary purpose of hiring a door-to-door coyote is not to evade border patrols, but to evade criminal violence" (Brigden 2015). It appears to be a unique feature of the situation in Mexico that individuals and people-smugglers must buy protection from the organised crime groups that exert territorial control across the country. If the correct dues are not paid, 'enforcement' is provided by other criminal actors – such as the *maras* or elements of the then-powerful Zetas franchise. Those who travel without a people-smuggler would be systematically targeted and run the highest risk from organised crime, including kidnap, extortion, extreme violence, human trafficking and forced involvement in the organised crime groups' illegal activities.

Migrants whose smuggler failed to pay *piso* to the correct group would also face these risks (Sørensen 2013, Brigden 2015, Riesenfeld 2015, International Crisis Group 2016). Hence, people-smuggling in the region became not just a service for those with no legal migration route, but an organised crime protection racket.

The impact of *Plan Frontera Sur* (2014–16)

Following the implementation of *Plan Frontera Sur*, as well as using people-smugglers to protect against the threat of organised crime during transit, people were also compelled to use people-smugglers to protect themselves from the increased in-country migration controls and to access transport options, having been unable to travel on public transport because of such controls. People-smuggling services were used proportionally more often by vulnerable demographic groups such as women and children who were now fleeing Northern Central America in large numbers. The cost to the service users went up and, according to experts I interviewed in Mexico and El Salvador, basic packages from El Salvador to the USA in 2015 started from US$8000 and could be US$14,000 or more for unaccompanied minors. These high prices resulted from the imposition of higher payments for *piso* as well as increased payments to corrupt state agents to allow the migrants' passage.

Experts from academia, international organisations and the independent press who I interviewed during my 2015 fieldwork were adamant that corruption was spreading as a direct result of the changed situation following the implementation of *Plan Frontera Sur* and that it now involved more state actors, including higher-level officials as well as the frontline agents on the route who physically permit the passage of people-smugglers. Indeed, contemporaneous trends indicated the increasing involvement of state agents, with large groups of migrants traversing Mexico in buses and lorries, avoiding apprehension in the northern parts of the country, despite their visibility throughout the journey. This involvement ranged from taking bribes to allow passage to more complex relationships between state agents and organised criminal groups (Hiemstra 2019), with corrupt state actors acting independently and colluding at a high level with organised crime.

Data from my expert interviews and media reports at the time indicated that, following the implementation of *Plan Frontera Sur*, organised crime became increasingly involved in the facilitation of migrant journeys. There was a marked change in the use of routes and modes of transport and the extent to which organised crime groups were involved in facilitating these. Maritime routes on both the east and west coasts

were being used, and large groups of people were being transported overland in lorries, with organised crime groups increasingly involved in arranging these journeys.[3] The situation of in-country migration controls made people more likely to use people-smugglers, and the large flows of migrants out of Northern Central America and the changed demographic profile of people moving made people-smuggling particularly lucrative (Hiemstra 2019). Hence, *Plan Frontera Sur* made people more likely to use people-smugglers and increased the costs for these services, and it also led to the increased profitability of people-smuggling, a deeper involvement of organised crime and the increased corruption of state officials.

Transcontinental links

People-smuggling and transit migration in the region has become more international in nature, with the arrival in Mexico of increasing numbers of transcontinental migrants intending to enter the USA. Research indicated that migrants arriving in Mexico used indirect and convoluted routes from other continents, and that many engaged people-smugglers for all or part of their journey (UNODC 2012).[4] Previously, migrants tended to be smuggled according to their regional or national origin, and people-smuggling networks for the different regional groups did not work together. However, since the end of 2008, international people-smuggling rings have begun working together with regional networks to facilitate transcontinental movements of people (Meléndez 2015, Casillas 2016a).

Developments during late 2015 and throughout 2016 indicated that these links were strengthening. During this time, tens of thousands of extra-continental migrants (primarily from Haiti, Cuba and certain African and Asian countries) arrived in southern Mexico, with thousands more stranded in Colombia and Central America.[5] Many of the Africans and Asians who arrived reported using people-smugglers whose services they had engaged both prior to leaving their country and during transit in South America, paying more than US$10,000 for transport and fake passports in 2016. This situation led to the closing of borders between Nicaragua, Costa Rica, Panama and Colombia in mid-2016. Meeting these stranded migrants' needs placed increased pressure on both civil society groups and migration authorities in these countries and in Mexico, particularly in Tapachula and Tijuana. These transnational dynamics continued to increase and persisted to the start of 2025 and US policy changes under the second Trump administration (see Conclusions and Reflections chapter).

A pattern emerged of people arriving in Mexico in large numbers and without travel documents from countries that do not have a deportation

agreement with Mexico. For instance, from late 2015 through 2016 thousands of Cubans, Haitians and citizens of certain African countries presented themselves at INM asking for *salvoconductos* or 'exit permits'. This *salvoconducto* is a temporary travel document that is available to citizens of countries without consulates or embassies in Mexico that can verify their identity or authorise their deportation. The document allows people to travel freely within the country for 20 days. These people were then travelling to the US border to attempt entry. The numbers of such arrivals were considerate, indicating planned and coordinated movement: between January and October 2016, authorities in the south of Mexico issued 17,000 such *salvoconductos*, and tens of thousands of stranded migrants from these countries remained in the northern border cities of Mexico at the end of 2016 – a trend which continued after this. Initial research and interviews with these groups indicated that they were using people-smugglers from their point of departure, that they were instructed by these people-smugglers to solicit the *salvoconducto* once in Mexico, and that Mexican organised criminal groups were involved both with the facilitation of transport and the collecting of *piso* during their passage through Mexico (Martínez 2016, Ureste 2016).

Migration controls and the evolution of people-smuggling and organised crime: a morphogenetic perspective

It is established that increased migration controls result in an increase in the use of people-smugglers, the sophistication of the operations and the cost of journeys. Relying on published material and data gathered from interviews with experts from international organisations, academia and civil society in Mexico and El Salvador in 2015, this section examines the elaboration of people-smuggling from a morphogenetic perspective, to clarify the consequences of three sets of policy and examine how they led to the strengthening of organised crime and a parallel weakening of state integrity. Interestingly, these policies tend to be externalised from the destination state to the transit state, where their consequences manifest. There are two lines of argument that my analysis will feed into and extend: firstly, the adverse consequences of externalised migration controls and policy and, secondly, whether such consequences could have been foreseeable given they were implemented in an environment of organised crime and corruption.

The imposition of new, restrictive migration controls makes people more likely to use people-smugglers for their migration journeys, although

their agency in doing so is constrained by factors such as social and financial capital. Such controls also affect the routes taken by people-smugglers as well as the *piso* paid to organised criminal groups and the bribes paid to officials, significantly increasing the cost to service users. These payments to organised crime groups and officials in turn have further implications in terms of strengthening of organised crime groups through their involvement. In addition to criminal groups benefitting significantly from the lucrative industry, their criminal governance is strengthened by this collusion to facilitate it, reinforcing their territorial control and their relationship with the state. Commentators note that while some officials believe that price increases demonstrate the deterrence effort's effectiveness, "higher prices are not necessarily a substantial deterrent" (Andreas 2001: 116). Rather, the "most consequential impact of higher prices has been to enhance the wealth and power of smuggling groups" (Andreas 2001: 117).

Subsequent iterations of tighter US border controls and policy led to more people using people-smugglers and to a shift in the nature of people-smuggling, away from self-smuggling and use of the traditional *coyotes* to the use of more professional smugglers (Andreas 2001, 2011, Kyle and Dale 2011, Riesenfeld 2015, Hiemstra 2019, Frank-Vitale 2023). This resulted in highly sophisticated and well-organised operations and networks with an increasingly transcontinental nature (Andreas 2011, Casillas 2011, Riesenfeld 2015, Schmoll 2016, Triandafyllidou 2016). The high profits and low risk of the industry were attractive to large criminal groups, which moved into this business in addition to their other established enterprises. Kyle and Dale (2011) argue that the US controls were strategically designed to move people-smuggling away from being lots of small-scale operations managed by the individual facilitators to larger-scale operations managed by large criminal enterprises. Their reasoning is that law enforcement is better focused on disrupting a smaller number of larger criminal organisations than a larger number of smaller ones or individual operators (Kyle and Dale 2011: 35). There is now widespread concern that "beefed-up border control inadvertently fuels human smuggling and fortifies [the] criminal gangs that increasingly control that industry" (International Crisis Group 2016). Indeed, an independent journalist from Mexico City who I interviewed described the increased profits for people-smuggling following the implementation of *Plan Frontera Sur* as "a gift to organised crime".

Commentary on how people-smuggling affects states has tended to take the perspective of its impact on and the actions of the destination state (for example, Koslowski 2011), rather than evaluating how people-smuggling operations and links to organised crime may affect the

integrity of the transit state. However, some commentators have started examining the impact of people-smuggling on states other than the destination state, although their focus tends to be on countries of origin rather than transit (for example, Kyle and Dale 2011). This line of debate merits being extended because people-smuggling poses particular challenges to the transit state.

Organised crime and corrupt officials who exploit migrants in Mexico enjoy complete impunity and benefit directly from *Plan Frontera Sur*. Increased controls and enforcement since its implementation led to the need to corrupt or bribe officials and resulted in increases both in extortion by state agents and in their collusion with organised crime groups (International Crisis Group 2016, Bonello 2016, Hiemstra 2019). This direct and indirect involvement undermines the authorities and leads to a weakening of state integrity. The subversion of state authorities – simultaneously a tactic of organised crime and a prerequisite for its growth – is indicative of the symbiotic relationship between people-smugglers and the state and is increased by tighter migration controls (Andreas 2011). Furthermore, the links between the financial benefits of people-smuggling and other criminal activity in Mexico and Central America have led some to claim that people-smuggling feeds the cycle of violence that presents ongoing challenges across the region and increasingly drives displacement.[6]

The evolution of people-smuggling in Mexico and Central America: morphogenetic analysis

The key change in people-smuggling through Mexico since 2000 has been the development of organised crime as a structural force within migration journeys. Prior to this time, the only notable structural force involved was the state. Morphogenetic analysis is a useful tool to explain how and why this change happened, and to bring clarity to complex chains of elaboration that both affect and are affected by agency and structure. This section will examine changes following three specific events: the post-2001 migration policy and militarisation of the Mexico–US border, Mexico's policy against organised crime from 2006, and the implementation of *Plan Frontera Sur* in 2014. First, it will show how tightened migratory controls led to a change in the nature of people-smuggling in the region. It will then analyse how organised crime became involved in people-smuggling at the point that coincides with its involvement in the exploitation and abuse of migrants, before ending with an examination of the changes precipitated by its implementation.

Chapter 3 explained how organised crime's move to a strategy of territorial control led to its involvement in migration-related activities. Alongside this change, the introduction of more restrictive migration controls appears to have had an effect on people-smuggling by altering the structural factors and influencing migrant agency. Factors that lead to people using people-smugglers are: a need either to leave one's country or to travel to another country; the absence of safe and legal passage; high levels of risk from state or criminal actors during transit; access to trusted people-smugglers; access to financial resources or to social capital with financial resources; and corruption or a lack of effective state presence to facilitate the journeys – namely state officials who can be bribed or who allow impunity for people-smugglers.

In-country migration controls increase the level of risk from state actors during transit, reduce the amount of the journey that can be conducted safely and restrict access to transport options, meaning that people are more likely to rely on a people-smuggler. Thus, changes to structural factors that increase migrants' use of people-smugglers will serve to perpetuate people-smuggling. However, the territorial control of organised crime on the migration route has had a similar effect on migrant agency by increasing the risk from criminal actors during transit. By establishing a new structural factor on the migration journey – the threat from organised crime – migrant agency is affected, with many people compelled to travel with people-smugglers to protect themselves from such risk. In both situations, migrants' agency serves to perpetuate people-smuggling and strengthen organised crime financially. This, however, results in weakened state integrity in the transit state through the corruption of state officials.

FIRST PHASE: POST-2001 MIGRATION CONTROLS

The post-2001 militarisation of the US border created "a more sophisticated and profitable human smuggling industry [. . . with] drastic changes in the level of profitability and organisation of clandestine border crossings" (Slack and Whiteford 2013: 199). This did not happen immediately but developed gradually over the following years. Due to the increased border controls, independent *coyotes* and small gangs of people-smugglers were no longer effective and an intermediary was needed to negotiate with state actors to allow passage. Similarly, migrants travelling without people-smugglers were unable to make such negotiations themselves, leading to an increased reliance on such services. The controls also made it more difficult to cross the US–Mexico border and people were pushed onto harsher and more isolated routes. This also led to an

increased reliance on people-smugglers to guide the way, as well as to changes in the services they offered, such as food, accommodation and 'safe houses' to hide in.

The result was that people-smuggling became a specialised business, with individual operators organising themselves into large networks in order to share information, resources and negotiating power. These large networks either absorbed or displaced individual *coyotes* and small people-smuggling gangs, primarily due to the networks' ability to negotiate with and bribe authorities.[7] From a morphogenetic perspective, the imposition of migration controls led to a changed structural situation to which both people-smugglers and migrants were forced to respond, and this led to an elaboration of the people-smuggling services. A key element in this change was the adoption of negotiating intermediaries who subverted state authorities through corruption, which has implications for the integrity of the transit state.

SECOND PHASE: MEXICAN SECURITY POLICY AFTER 2006

From 2006, organised crime's involvement in migration-related activities in Mexico, including people-smuggling, began in earnest. As a result of the security policies and crackdown on organised crime under the auspices of the 'War on Drugs' (also known as the 'Kingpin Strategy'), large criminal groups in Mexico fragmented, battled between each other for territorial control and diversified their range of income-generating activities. The post-2001 changes described in the previous section meant that large, professional people-smuggling networks were now established in Mexico, operating with state collusion and impunity. This led to large organised crime groups realising that:

> the vulnerability of undocumented immigrants facilitates criminal activity, diminishes the risk factor for members of the criminal organisation, subordinates less developed [smuggling] networks to larger groups, and opens up new avenues and new instances of mediation to inhibit actions taken by the government. (Casillas 2011: 307)

As well as the instant income-generating opportunities, systemic corruption and impunity for people-smuggling were key factors that attracted the involvement of organised crime, as well as the ability of such groups to move people along the same routes used for smuggling drugs.

The first key change was that every people-smuggler or *coyote* now had to pay the dues or extortion known as *piso* to pass – a financial model that is core to the post-2006 territorial control model of large organised crime groups in Mexico. With the development of more hierarchical structures, these networks of people-smugglers were displaced by large-scale,

commercial people-smuggling gangs, who fortified their links with both the *maras* and government authorities and formed strategic alliances to operate more efficiently. Organised crime groups used extreme violence to ensure cooperation and to subordinate networks of people-smugglers (Casillas 2011). The models of organised crime involvement were not homogenous, but varied according to the group, with some being more predatory and others more transactional. Another significant change was the development of some aspects of people-smuggling into a protection racket, which is linked to the abuse and exploitation of migrants by organised crime groups in Mexico, including the perpetration of kidnapping, assaults, robberies and sexual violence (see Chapter 3). This affected migrant agency, with people being compelled to use people-smuggling services to protect against the threat of violence and extortion and the 'enforcement' if they did not.

As the morphogenetic framework accommodates changed situations in subsequent elaborations, we can see that the previous elaboration triggered by post-2001 migration controls had substantially changed people-smuggling operations, and that this then fostered the involvement of organised crime in people-smuggling. While internal changes within organised crime groups and the manner in which they operated were the catalyst for their diversification into new activities, one key factor that prompted their involvement in people-smuggling was the environment of impunity, corruption and state collusion. As such, the subversion of the state actors and authorities described in the previous elaboration enables this subsequent elaboration.

THIRD PHASE: THE IMPLEMENTATION OF *PLAN FRONTERA SUR* IN 2014

Following the implementation of *Plan Frontera Sur* in July 2014, there were evident changes in people-smuggling in Mexico. After an initial fall in the numbers of Central Americans apprehended at the US border, numbers increased significantly from mid-2015 to the end of 2016.[8] This increase has been attributed to people-smugglers adapting to the new controls by using new routes and more bribes to ensure successful passage (Chishti and Hipsman 2016, Knippen et al. 2015).

On the ground, the most apparent changes during this time were the use of different modes of transport, routes and points of entry to the USA, and considerably higher costs to the service users. These higher costs were due to increased payments to both criminal and state actors: higher *piso* to organised crime and more bribes to a larger number of state agents (Bonello 2016, International Crisis Group 2016, Sanchez Soler 2016a, 2016b). State involvement in people-smuggling increased following the

implementation of *Plan Frontera Sur*. According to experts who worked with migrants in southern Mexico, police and migration officials were reportedly paid bribes to allow lorries of migrants to pass at checkpoints. The increased cost of people-smuggling services implies a higher level of corruption involving a larger number of state agents and more senior officials, thus weakening state integrity.

Despite increased in-country migration controls in Mexico since 2014, figures show that apprehensions of Central American family groups and unaccompanied minors at the US border returned to high levels after an initial dip immediately following the implementation of *Plan Frontera Sur*, and that the number of family groups soon far exceeded the previous high levels.[9] This was in spite of a dramatic rise in deportations of these groups from Mexico during the same period of time, indicating that people-smuggling organisations had responded to the changes, and smugglers were again operating successfully. This shows how organised crime is innovative and agile in terms of adapting to whatever policy changes or government responses are made. The previous elaborations of people-smuggling operations established the subversion of state authorities, and in this elaboration, this factor enables further corruption, which spreads to more agents and higher levels of officialdom, indicating a further weakening of the state.

Impact of migration controls on people-smuggling and related corruption

The involvement of organised crime in people-smuggling increased significantly between 2000 and 2016, and after the implementation of *Plan Frontera Sur*, some organised crime groups appeared to be profiting more from people-smuggling or becoming more involved in operation, facilitation and arranging transport. As the scope and level of involvement of organised crime in people-smuggling operations increased, there was a parallel increase in the scope of and level of corruption, "from simple bribes to more complex links between police, migration officials, and organised crime and gangs" (Hiemstra 2019:55). Successful people-smuggling operations and the agency of migrants led to the implementation of restrictive migration controls, in response to the large number of arrivals at the US border. At the point of implementation of *Plan Frontera Sur* in July 2014, sophisticated people-smuggling operations were facilitating migration journeys through Mexico with the deep involvement of organised crime groups and corrupt state officials. We can see that, in this changed environment, the imposition of migration controls resulted in changes in these people-smuggling services, which

rapidly responded to the constraints of the new migration controls, further extending and entrenching the corruption of state officials to allow the passage of people.

From a morphogenetic perspective, we can see more clearly how each elaboration serves to strengthen criminal groups' involvement, deepen corruption and facilitate the next elaboration. What is wholly apparent is that, given the extant context, *Plan Frontera Sur* led to increased corruption and subversion of state authorities in order to facilitate the continued movement of people, thus weakening state effectiveness and integrity. While elaborations of people-smuggling operations were a primary consequence of the increased migration controls, this weakening of state integrity was a secondary consequence. These findings have implications for our understanding of adverse consequences of policy and their foreseeability, as well as for conceptualising the secondary consequences of these.

Migrant agency in the context of people-smuggling

This section explores the impact these changes have had on service users, showing how agency is constrained and yet also has transforming properties. Migrants may use people-smugglers as a strategy for self-protection during transit, when their choice of transport options is limited because they risk apprehension by state agents or criminal actors. The increased use of people-smugglers is a consequence of migration controls, with people forced to use these services to complete their journey, and this both perpetuates people-smuggling and can lead to even tighter migration controls being imposed by states in response (Andreas 2001, 2011).

To understand the role of migrant agency in the establishment of *Plan Frontera Sur* my analysis draws on interviews conducted in late 2015 with fifty-eight people at a migrant and refugee shelter (*Albergue Hermanos en el Camino*) in Ixtepec, Mexico, and at the Returns Centre (*Centro de Atención a Repatriados*) in Santa Tecla, El Salvador. I examined the experiences of those who had used people-smugglers on this or a previous migration, and any factors that had constrained their current travel options. Trends in these data for arrivals of unaccompanied minors and families on the US border over a five-year period, contextualised with narrative accounts of changes from fieldwork interviews, reveal how both people-smuggling operations and migrant agency respond to changes in migration controls, and vice versa, and allow assessment of the efficacy of this policy.

Migrant agency: constrained by circumstance

From a perspective of migrant agency, the use of people-smugglers is "neither purely voluntary nor involuntary" (Kyle and Koslowski 2011: 10), and migrant agency is exercised only *within* the constraints presented by structural factors and by the individual's personal situation. Chapter 1 examined how migrant agency and the decision to leave one's country of origin was affected by a lack of effective state protection from organised crime. A number of contextual factors either constrained agency (absence of state protection in country of origin, a lack of safe and legal passage) or opened opportunities (social capital in destination). Similarly, a number of structural factors and social variables influence migrants' decisions to use people-smuggling services and their ability to access them, including: a lack of safe and legal passage; the social and historical context of people-smugglers as trusted service providers; social capital in destination state; access to financial resources; vulnerability due to their demographic profile; threat from criminal actors during transit; and a pressing need to leave one's country.

Migrant agency is affected by risk from both state and criminal actors during transit, and people use people-smugglers to protect from both of these groups. Increased migration controls also make people more likely to use people-smugglers for their migration journeys, although their agency in doing so is constrained by factors such as access to resources. After the implementation of *Plan Frontera Sur*, there was increased risk of apprehension by state actors as well as decreased access to public-transport options. Both these factors affected migrant agency by making them more inclined to use a people-smuggler to evade state agents and to provide transport. In addition, people continued to be compelled to use people-smugglers to avoid the threat of criminal violence in Mexico. The continued demand for these services obliged people-smuggling networks to evolve and adapt to the new migration-control environment, thus perpetuating people-smuggling.

Interviews with migrants and refugees in Mexico demonstrated how contextual factors (notably increases in the cost of people-smuggling and a lack of access to financial resources) restricted the agency of migrants and meant that they could not engage a people-smuggler. People who had previously travelled with people-smugglers spoke of the protection and benefits they offered: "With a *pollero* [people-smuggler] it was very easy – you don't suffer at all. Alone, you suffer on the journey. You suffer hunger, thirst, cold, sleeping on the train tracks. You could easily die"; "You were there in five days with the *guía* ['guide' or people-smuggler]. I have already walked 12 days to get here". However, one Honduran woman,

who was pregnant and travelling with a small child, had been robbed and abandoned by her smuggler: "When we got to Tapachula he stole $100 and left me there".

Nobody mentioned that they would not have been able to access a trusted people-smuggler, but several people said that they had been unable to use people-smugglers because of a lack of resources and the increased cost. They said that this was largely due to the increased payments to both criminal groups and state agents that had significantly inflated people-smuggling costs after the implementation of *Plan Frontera Sur*: "No money for that. It's too expensive now"; "I ran out of money, so I don't have a *pollero* anymore". A young Guatemalan man who had used people-smuggling services on two previous occasions (in 2011 and 2015) said that the only thing that had changed over that time was that the price had almost doubled, explaining that this increase was to cover the cost of paying *cuotas* or 'fees' during the journey. An 18-year-old man from Salvador, who had previously travelled with a people-smuggler in 2008, detailed the increase in costs:

> You needed $7,000 before – now it's $10,000. For this reason, I couldn't use the *pollero*. This increase is because they have to pay more to *migra* [immigration agents] and the police now. And the cost per head to the Zetas [a Mexican organised crime group] is also up – $500 per head to the Zetas in 2008, but $1,000 per head now. They pay the Zetas, *migra*, the Federal Police . . .

Others were less sure about who was actually paid, but several detailed bribes being paid to or demanded by state officials. A young Guatemalan man described the situation: "When I went with a *guía* we were stopped at the checkpoints and they asked me for money, maybe 150 pesos. They took me off the bus. This happened six or seven times. They had the same uniforms each time – dark blue uniforms." The continuing and increasing flow of people out of Northern Central America indicates that agency is not constrained so much as to prevent migration, but that people were either forced to pay these increased rates or to travel without the benefits of people-smuggling services.

Migrant agency: transforming power and emergent properties

Analysis of data on the apprehension of family groups and unaccompanied minors at the Southwest US border over a five-year period demonstrates the transforming power of agency and the emergent properties of both people-smuggling and migrant agency. It shows how the

substantial increase in the number of Central American family groups and unaccompanied minors reaching the US border in 2014 led to new policy, namely the implementation of *Plan Frontera Sur* and its intensive in-country migration controls in Mexico. These data show how the number of apprehensions fell immediately after it was implemented, before rising significantly.

The figures for family groups and unaccompanied minors are pertinent for two reasons. Firstly, it was the significant increase in the arrivals of these specific groups that led to *Plan Frontera Sur*. Secondly, these particular groups are most likely to use people-smugglers to facilitate their journey, so their successful arrival at the US border is a fair reflection of the success of people-smuggling services. As a result, these data are most likely to give an indication of how people-smuggling both contributed to and responded to the imposition of these migration controls.

FIRST PHASE: AGENCY LEADS TO STRUCTURAL ELABORATION IN TRANSIT STATE

Southwest border apprehensions of Central American family groups and unaccompanied minors had been at fairly low and steady numbers for some time, with an average of 913 family groups and 2,265 unaccompanied minors apprehended each month in 2012. However, these apprehensions increased significantly in March 2013 and continued to rise, reaching a peak in June 2014 when 16,330 family groups and 10,620 unaccompanied minors were apprehended at the US border.[10] In response, President Obama declared this to be an "urgent humanitarian situation" and, following his meeting with Mexican President Peña Nieto, Mexico implemented *Plan Frontera Sur* in August 2014. Designed to curb irregular flows of people and to protect the human rights of migrants, this policy manifested as harsh in-country migration controls, prevention from travelling on the goods trains collectively known as *La Bestia* ('the beast'), and a huge rise in deportations from Mexico of Central Americans in transit.

While there was arguably political pressure on Mexico from the USA to deliver these migration controls, morphogenetic analysis can bring clarity to how this happened. From an agency perspective, people were able to reach the US border because they had access to successful people-smuggling services, and this led to the high level of arrivals at the US border that precipitated the implementation of *Plan Frontera Sur*. This demonstrates the transformative properties of migrant agency and how this results in structural elaboration.

SECOND PHASE: AGENCY CONTINUES DESPITE PREVIOUS STRUCTURAL ELABORATION

Immediately after the implementation of *Plan Frontera Sur*, there was a significant reduction in the number of family groups and unaccompanied minors from El Salvador, Honduras and Guatemala apprehended at the US border. By September 2014, apprehensions had fallen to 2,301 family groups and 2,416 unaccompanied minors, and they remained around this level for several months. This demonstrates that the controls had some initial success in their objective of constraining the migratory flow. However, in March 2015, the numbers of family groups and unaccompanied minors started to rise noticeably and continued to grow throughout the following year. This was particularly so for family groups from Northern Central America, with the number of apprehensions in December 2015 being higher than the total for the last three months of 2013 combined, and then rising to an average of 8,000 a month during the latter half of 2016.[11]

Experts working in the field told me they believed the increase in arrivals during the latter half of 2015 was the result of more successful people-smuggling operations that had rapidly adapted to the changed structural situation by using alternative routes and bribing officials more extensively (Hiemstra 2019). Indeed, it is hard to conceive of any other rational reason why such large numbers of people managed to avoid the intense, new in-country migration controls in Mexico, especially given the concurrent increases in deportations of these very groups and individuals from Mexico during this period. Furthermore, the significantly higher number of family groups that arrived in the USA during 2016 suggests that people-smuggling strengthened following the implementation of *Plan Frontera Sur*.

Impact of agency on the deployment of policy and on its efficacy

People were compelled to use people-smuggling services to protect against apprehension by state agents, to protect from criminal actors and to transport increasing numbers of women and children from Northern Central America. Although people's agency was constrained both by migration controls and a lack of resources to access people-smuggling services, this did not stop them from migrating, especially if they would be at risk if they did not leave their country.

Migrant agency, whether exercised via people-smuggling services or not, resulted in unprecedented arrivals at the US border of those most

likely to use people-smuggling services – family groups and unaccompanied minors. This, in turn, led to structural elaborations in the form of restrictive migration controls that were implemented in the transit state. While the resulting increased costs of people-smuggling services did constrain migrant agency in some instances – as indicated by the narratives of some of my interviewees – other people with access to financial resources did not have their agency similarly constrained and were able to use these services.

From this we can see that migrant agency responds to the changed circumstances, and that mobility continues in spite of both the increased migration controls and the significantly increased costs of people-smuggling. These figures indicate that people-smuggling groups responded quickly and agilely to the new controls, by adopting new routes and further corrupting state authorities. They also show us that the emergent properties of migrant agency, together with the emergent properties of people-smuggling services, act as a stronger force than migration controls. However, when migrants exercise their agency in this way, it can lead to state actions, such as the deployment of externalised migration controls from the destination state to the transit state. This shows how agency and people-smuggling contribute to the efficacy gap of migration policy, as well as to the initial development of such policy.

People-smuggling, corruption and state integrity

Analysis within the morphogenetic framework enables us to see more clearly how the dynamics of people-smuggling interrelate, how structural factors affect agency, and how agency can simultaneously alter structural factors. This provides a coherent picture of the complex dynamics, revealing the emergent and transforming properties of each, and extending understanding in response to calls for a structure–agency approach to this topic (Baird 2013, Sanchez 2015). Migrants continue to leave their home countries in spite of the structural challenges (migration controls, danger in transit, lack of safe and legal passage), relying on people-smugglers more so because of these factors. Successful people-smuggling can, in turn, result in the implementation of more restrictive migration controls, demonstrating how "the State help[s] to make smuggling and how smuggling help[s] to (re) make the policing apparatus of the State" (Andreas 2011: 139).

This analysis enables new insight into how the adverse consequences of migration control develop and, further to this, how the externalisation of migration controls can be detrimental to the transit state. Due

to the sophisticated people-smuggling operations and networks in the region, migration controls are ineffective in stopping migratory flows and instead have adverse consequences. Far from interrupting migration flows, such policy has served to increase the involvement of large organised crime groups in facilitating people-smuggling journeys and to increase the profitability of this activity (Hiemstra 2019). Migration controls heighten security risks for undocumented migrants in border zones or throughout the transit state, if they are implemented in-country – as *Plan Frontera Sur* was. They thus increase the likelihood that such people will use people-smugglers. Subsequently, people-smuggling becomes more profitable to a greater range of criminal actors and corrupt state agents. As such, it serves to increase the usurping of state powers by criminal entities in the transit state, including the control of borders and entry of foreign nationals, further entrenching their "privatisation of the border" (Turati 2015). Further, this analysis provides a model to understand how things are likely to develop and expand – as has played since out in Mexico, with the increased direct involvement of the major organised crime groups and the increasingly extracontinental nature of people-smuggling flows (see Dudley et al. 2023).

Parallel to this strengthened role of large criminal organisations in people-smuggling is a weakening of the state, indicated by increased corruption and collusion of state agents and institutions to ensure the passage of people. As suggested previously, earlier policies may have – perhaps intentionally – changed the face of people-smuggling in the region and moved it into larger and more organised operations (Kyle and Dale 2011). What such strategy to failed to address, however, was the way in which organised crime groups operate their businesses and the models they use, namely: protection rackets enforced by actual or threatened violence; leveraging of existing criminal networks and development of new alliances; corruption of state agents and institutions; and expansion to new markets through new transcontinental crime networks. Further to this, there appears to have been no effective strategy to disrupt such operations, leading to a worsening situation in Mexico, marked by the strengthening of organised crime groups and the parallel weakening of state integrity.

It is generally accepted that increased reliance on and demand for people-smugglers can be 'unintended consequences' of migration policy and that this may be linked to organised crime (Cornelius 2001, 2004, Cornelius et al. 2004, de Haas 2011, Czaika and de Haas 2013, 2016, Schmoll 2016). Whereas this is a primary consequence of increased migration controls, the impact on state integrity is a secondary consequence. This consequence – increased corruption – then becomes a contextual

factor in subsequent elaborations. This book extends understanding about the adverse consequences of policy by examining them not just from a structure–agency perspective, but also as an integral part of the cycle of change.

Although there is agreement that increased migration controls lead to increased people-smuggling (Andreas 2011, Kyle and Koslowski 2011, Doomernik 2013), some commentators (for example, Sanchez 2015, Kyle and Dale 2011) further claim that the impact of such controls and state actions is deliberate and that the increased involvement of organised crime in people-smuggling is not so much an unintended consequence as an intended one. Kyle and Dale (2011) have argued that previous migration policy had a deliberate and planned strategy to push people-smuggling in the region away from individual operators and into the control of large criminal organisations. Regardless of any subjective perception of intent, this has indeed been the objective outcome. The above analysis shows how such a strategy has had serious implications for the integrity of the transit state because of the complicity of state actors in people-smuggling – both directly through bribery of officials and indirectly through impunity and collusion with organised crime – and because of criminal groups' encroachment into that last bastion of the state: control of its borders.

Given the changed environment when *Plan Frontera Sur* was implemented and the understanding of how previous policy had affected the people-smuggling in the region, it would be clear that this new policy would further aggravate these issues. If the argument (Kyle and Dale 2011) stands that previous migration policy was deliberately designed to engineer change in the nature and control of people-smuggling in the region, then it follows that there must have been foreseeable consequences of *Plan Frontera Sur* and that the policy was implemented with awareness of this, nonetheless. This all raises some salient questions about state responsibility, which are considered in Chapter 5. The analysis in this chapter can further inform understanding of the evolving situation in the region following subsequent iterations of policy and also has global relevance, and this will be discussed in the Conclusion and Reflections chapter.

Notes

1. *Coyotaje* is a Mexican term that refers to the traditional form of people-smuggling, where trusted individuals or *coyotes* guided people across the US–Mexico border. The terms *coyote*, *pollero* and *guía* are used interchangeably across the Mesoamerica region; *pollero* became the most frequently used to refer to the front-end service providers of larger people-smuggling operations.

2. See Andreas (2011) for a detailed historical context and comprehensive analysis of the development of people-smuggling in the region.

3. In particular, the maritime route off the coast of Chiapas in southern Mexico was being used much more intensely to transport people directly from Guatemala to Oaxaca. This coast is under the control of large drug-trafficking groups, and during 2016, there were territorial battles over control of the coastline through Oaxaca and up to Colima (Lakhani 2016).

4. For example, migrants from East Africa were being transported along land routes to South Africa and then smuggled by air into Brazil. Once in South America, they were travelling by sea or land to Costa Rica or Panama, or by air directly from Brazil to Mexico. Chinese and Indian migrants were often being transported to Guatemala and travelling from there by land to Mexico (UNODC 2012, 2015).

5. In the first eight months of 2016, nearly 8,000 migrants from Africa and Asia sought the assistance of INM in Tapachula – a four-fold increase on all those registered in the whole of Mexico during 2014 (Lakhani 2016). A similar trend emerged at the US–Mexico border where, in addition to thousands of people from Africa, 11,000 Haitians arrived between May and October 2016; by October, Haitians were arriving in Tijuana at a rate of 700 a day (CNDH 2018).

6. Interview with an official from an international organisation, Mexico City, November 2015.

7. Interviews with an academic researcher, San Cristobal de las Casas, September 2015, an academic researcher, Mexico City, October 2015, and an academic researcher, San Salvador, October 2015.

8. US Department of Homeland Security, 2016. "United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016".

9. United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Years 2012–16.

10. United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Years 2012–16.

11. United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Years 2012–16.

Chapter 5

Law, policy and the state: accountability for adverse consequences, criminal activity and corruption

This chapter examines aspects of Mexico's role in relation to each of the issues presented in the preceding chapters, evaluating policy and state responses, obligations under international human rights law and the empirical situation. First, it examines Mexico's role in the externalisation of US migration controls under *Plan Frontera Sur* and how their implementation sits alongside Mexico's obligations to those who have been forced to flee criminal violence in Northern Central America and have potential international protection needs. Second, it looks at the causal role of state inaction and impunity in the widespread and systematic abuse of migrants by organised criminal groups and at state accountability for the implementation of policy despite its foreseeable consequences. Third, it explores the role of state complicity in people-smuggling, the implications of corruption and state collusion, and the impact this has on state integrity. The final section pulls all these strands together into broader arguments about the foreseeable adverse consequences of migration controls and about state accountability for these, reflecting on the implications when states are cognisant of these but implement such policies nonetheless. If there is a likelihood that states were aware of the foreseeable adverse consequences of *Plan Frontera Sur*, these can be further framed as 'collateral damage' of this policy, raising salient questions about state responsibility for the impact of these consequences on human rights. Throughout, this chapter reflects on aspects of state accountability for the consequences

of policy implemented within an environment of endemic criminal violence, impunity and systemic corruption.

These findings are drawn into debates about responsibility for the human rights impact of externalised migration controls (McNamara 2013, Podkul and Kysel 2015, Frelick et al. 2016), accountability for the foreseeable adverse consequences of migration policy on migrant lives and human rights – including the obligation to identify and mitigate these (Koser 2005, Spijkerboer 2007, Grant 2011, 2016, Weber and Pickering 2011, Michalowski and Hardy 2014), and on state responsibility for the acts of organised crime (Gallagher 2010, Hauck and Peterke 2010, 2016, Gallagher and David 2014, Guercke 2021). This chapter expands on the arguments that states should be accountable for policy-driven harm, by looking more squarely at direct violence perpetrated by organised crime, at rights violations resulting from the externalisation of migration controls, and at corruption related to people-smuggling. Notably, it extends current debate around state accountability by examining two novel areas: state action and inaction concerning organised crime, and the foreseeable nature of adverse consequences when implementing policy in an environment of endemic impunity, organised criminality and systemic corruption.

Externalisation of migration controls under *Plan Frontera Sur*

One thread that has run through the previous chapters was the implementation of new migration controls in 2014 under *Plan Frontera Sur*. As set out in Chapter 1, this was announced by President Peña Nieto on 7 July 2014 and put into action six weeks later.[1] It was one of several US-funded activities in the region that were externalisation instruments of US migration policy.[2] These were implemented following a meeting between the presidents of the USA, Mexico and Guatemala, shortly after President Obama had declared the arrival of tens of thousands of unaccompanied minors and family groups at the US border to be an "urgent humanitarian situation". As detailed in the previous chapters, *Plan Frontera Sur* affected all three aspects of organised crime's involvement with migration, manifesting in different ways and combining with other factors to adversely affect human rights.

The only publicly available government documentation on the policy briefly notes that *Plan Frontera Sur* comprised five lines of action that purported to protect and safeguard the human rights of migrants entering or transiting Mexico.[3] Its declared objectives were to bring order to

Mexico's southern border area, to make border crossings more orderly so as to increase development and security in the region, and to protect the security and human rights of migrants, in particular unaccompanied minors. However, no detailed plan or strategy was published, nor was there any explanation of the steps taken to meet these objectives or of how success would be measured.[4] Above all, there was a complete lack of transparency about its activities, objectives and infrastructure, with the implementation on the ground the only evidence of what was happening.[5]

Plan Frontera Sur manifested as restrictive in-country migration controls, an increase in the number of operations and checkpoints, and the apprehension, detention and deportation of hundreds of thousands of Central Americans.[6] Experts that I spoke with were unanimous that the policy represented the externalisation of US migration controls, with a few also expressing that it imparted responsibility on Mexico to do the US's 'dirty work', particularly with regard to the deportation of minors and deportations without appropriate screening. Concerns were raised that using such measures to reduce the number of arrivals at the US border diminished the sense of urgency and political will to tackle the root causes of displacement in Northern Central America (Isacson et al. 2015). Most experts I interviewed said that there was a gulf between the declared intentions of *Plan Frontera Sur* and its actual operation: there was rhetoric about human rights and security for migrants but, in practice, there were increased deportations and abuse – a situation one expert described as "doublespeak".[7] Similarly, official commentary – echoed in media reports – described state agents as 'rescuing' and 'securing' migrants rather than detaining and deporting them and called prison-like detention centres 'migratory stations' (*estaciones migratorias*) (Knippen et al. 2015, Casteñada 2016).

Developing perspectives on policy outcomes

The lack of published policy documentation, coupled with the opaque process of externalisation, forces an analysis based on the empirical facts of implementation, rather than trying to second-guess any potential intent behind it. This objective focus on the actual outcome of the policy moves away from more subjective approaches that may deal with intended or unintended consequences (for example, Cornelius 2001, 2004, Cornelius et al. 2004) and offers insight into *foreseeable adverse consequences*. If intention is taken from the declared policy objectives, then conjecture must be relied on to distinguish what may be unintended based on their exclusion from these, rather than on any explicit declaration about what is unintended. The objective approach is highly appropriate as it opens up

an opportunity to move away from such subjectivity, to evaluate the policy's adverse outcome on human rights, organised crime activities or the state, and to analyse how and why such outcomes could be foreseeable.

In the previous chapters, morphogenetic analysis exposed some of the hidden causal mechanisms in the development of organised crime's role in migration. This chapter examines in a sequential manner the role the state plays in relation to each of the situations in those chapters. It would be incorrect to assume that the state is just a static structural force or that it serves only as a structure; it possesses agentic properties that precipitate changes in other structural and contextual factors. With regard to migration, such properties are most apparent in decision-making, policy implementation and the enforcement of migration controls. In the context of organised crime, they are found in state action and inaction in delivering effective law enforcement and addressing impunity and corruption. States' decision-making results in policy events, and in the production and reproduction of structural and contextual factors. These, in turn, shape future policy outcomes, migrant agency and the development and activities of organised criminal groups. As well as providing new insight into the role of the state, this chapter tests how the morphogenetic framework can be used as a model to better understand the foreseeable nature of adverse consequences or to identify potential adverse policy outcomes in future time. Having a perspective that is "not only dualistic but sequential", the framework can be used to analyse successive iterations where "subsequent interaction will be different from earlier action because [they are] conditioned by the structural consequences of that prior action" (Archer 1982: 458).

Locating understanding about the consequences of policy, the acts of non-state actors and state accountability

Adverse policy outcomes and policy gaps

Rather than addressing migration within the broader context of social transformation and globalisation, state policies approach it as a discrete problem to be solved and inasmuch "often fail to achieve their objectives, or even bring about the opposite of what is intended" (Castles et al. 2014: 317). When states create policies that penalise immigration and conceptualise migration in rigid terms, the resulting policies are repressive and reinforce a one-dimensional approach, failing to address the broader causes of migration. Enforcing policies is futile, and some claim that "ineffective and 'symbolic' immigration control measures"

are perpetuated as political posturing to placate the public and provide an image of control (Cornelius et al. 2004: 42). Furthermore, such policies are not aimed at addressing immigration in a meaningful way by addressing the structural factors but are designed to be highly visible and punitive. Repressive policies are therefore often ineffective in stemming immigration, but have a significant impact on its composition, "pushing immigrants towards a clandestine existence that leaves them economically exploitable and vulnerable" (Massey et al. 2008: 288).

The nature of irregular migration is particularly affected by states' reliance on "policy instruments with inherent flaws that fail to deter unauthorised immigrants and asylum seekers but produce serious unintended consequences" (Cornelius et al. 2004: 7). Contemporary policy approaches have thus resulted in "the *convergence* in the policy instruments chosen for immigration control and widening *gap* between the goals of these instruments and actual immigration outcomes" (Massey et al. 2008:288, see also Cornelius et al. 2004). There are three types of policy gap: the 'discursive gap' or 'discourse gap', which is the gap between official discourse and policy; the 'implementation gap', which is the gap between a policy and its implementation in practice; and the 'efficacy gap', which is the gap between policy objectives and actual policy outcome (Czaika and De Haas 2016: 35, Schmoll 2016: 365). There are two core ways in which these gaps manifest: as 'unintended consequences' and as 'inadequate implementation' (Cornelius et al. 2004: 17–19). Given their general inefficacy, commentators have questioned the genuine motives for restrictive migration controls, asking whether they are a "quixotic or credible quest for control" (Castles et al. 2014: 238) and suggesting a deliberate gap between policy and implementation (Cornelius et al. 2004, Massey et al. 2008, Bigo 2004).

The externalisation of migration controls and the transit state

Transit countries are increasingly important in debates about policy and the externalisation of migration controls. Just as irregular migrants are defined by their exclusion from laws, transit countries are conceived in relation to destination states, being defined by geographical coincidence and patterns of movement that are the only option for migrants, due to lack of regular channels and the economic means of the migrant (Düvell 2006, Velasco 2009, Cholewinski and Taran 2009, Hess 2010). Parallel to the development of restrictive migration policies in destination states, the notion of the *transit state* rather than *transit country* has developed, denoting "recognition of the State's growing role, instead of being [a]

passive actor in the migration in the transit routes" (Sahin-Mencütek 2012: 142–3).

The term 'transit state' denotes its presumed role in controlling the flow and as a site for externalisation and is "a geopolitical label which implies external interference (e.g. the externalisation of migration policy) and constructs something somewhat other from the traditionally integral state" (Hess 2010: 9). Destination states use their political weight and influence to pressurise transit states to externalise their migration policies through bilateral agreements, the implementation of restrictive immigration controls and the apprehension and deportation of transit migrants (Kimball 2007, Sahin-Mencütek 2012). Transit states are thus "reconceptualised from being a descriptive idea in geography to becoming a tool of governance" (Oelgemöller 2010: 416), where "bordering measures such as detention, e-bordering and forced movement are intensely implemented" (Schmoll 2016: 364). Despite the mixed flows in transit, "control measures – be they interceptions or visa measures – rarely include adequate procedures for distinguishing those who need protection from those who do not" (Schmoll 2016: 367).

International norms of protection may also induce destination states to externalise their border controls because once irregular migrants are on their territory, they have duties and responsibilities to them under international law (Kimball 2007). As states externalise their migration policies, so too do they externalise their human rights responsibility to transit states that may not have the capacity to implement protection. This causes two specific issues for protection. Firstly, despite talk of 'burden-sharing', transit states are largely responsible for the administrative and practical challenges that are presented (Kirişçi 2004, 2007, Verduzco and De Lazano 2011, Sahin-Mencütek 2012). Secondly, political pressure from the destination state/s to prevent the passage of migrants through the transit state – for instance by deporting them – may conflict with the human rights obligations of transit states (Kirişçi 2004, Kimball 2007, İçduygu and Yükseker 2010, Sahin-Mencütek 2012). It is this dilemma between states' sovereign interests and migrants' rights that is at the heart of migration, but this is further complicated by political pressure in the context of externalisation. Situations of forced migration present particular challenges and dilemmas for the transit country, resulting in deep tension in the political relationship with the destination state and human rights obligations to those on its territory, and affecting its own sovereign right to decide who is authorised to be in its territory.

Mexico has long been both a country of origin and of transit for people migrating to the US but, since 2001, socio-political events and narratives on security resulted in increased securitisation and externalisation of

migration policies that have turned Mexico into a 'vertical border' for its northern neighbour (Knippen et al. 2015, Frelick et al. 2016, Hiemstra 2019). The externalisation of US migration policy has played a significant role in harm and human rights violations during transit because the Mexican state "legitimises the implementation of regulatory and repressive policies – framed as securitisation – that, in effect, allow new forms of violence to flourish" (Vogt 2013: 771). In this context, "extra-territorial migration policing practices extend US power while simultaneously obscuring and eluding responsibility for violent consequences of this policing" (Hiemstra 2019: 46). Under *Plan Frontera Sur*, Mexico became the site for a new iteration of externalisation tools to prevent people from reaching the US border.

State accountability

There are three aspects of state accountability that are particularly relevant here: accountability for the adverse outcomes of migration policy; responsibility for human rights violations resulting from the externalisation of migration controls; and state responsibility for acts of criminal groups. This section will look at each of these aspects in turn.

The first of these aspects is the state responsibility for the adverse outcomes of border control and migration policy. Although states have the sovereign right to control their borders, "they are also under a duty to establish and take into account the foreseeable impact of frontier control on human lives and human rights" (Grant 2011: 69). Nonetheless, commentators note the adverse consequences of migration controls on indirect violence, arguing that states must be obliged to identify and mitigate the foreseeable adverse impact of policy and border control (Koser 2005, Spijkerboer 2007, Grant 2011, 2016, Weber and Pickering 2011, Slack and Whiteford 2013). Lines of debate have opened up around state responsibility for policy-related migrant deaths and the 'unintended side effects' of border control (Grant 2011, 2016, Weber and Pickering 2011, Michalowski and Hardy 2014). Grant (2011, 2016) details the human rights obligations of states to mitigate such deaths and harm to migrants, especially where they are foreseeable and where states are aware that controls and policy will increase risk. Weber and Pickering (2011) trace lines of accountability for policy-produced deaths and indirect violence, noting that similar lines of accountability could also be traced back from certain incidents of direct violence. Policies with foreseeable adverse consequences that precipitated such violence have been knowingly implemented, which some commentors claim could be a state crime (Weber and Pickering 2011, Michalowski and Hardy 2014).

Secondly, there are complicated issues regarding state responsibility for both the destination and transit state that arise when rights are violated as a result of the implementation of externalised migration controls (Gammeltoft-Hansen 2014). A state incurs responsibility when a violation happens within its jurisdiction or is perpetrated by its state agents – thus, responsibility would be borne by the transit state. Nonetheless, the destination state could potentially bear some responsibility because a state that knowingly "aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so" (Articles on Responsibility of States for Internationally Wrongful Acts, ARSIWA, Art. 16). Although analysis of the externalisation of migration controls (Podkul and Kysel 2015, Frelick et al. 2016) provides valuable insight into the types of rights violations that result and acknowledges the applicability of this rule (Frelick et al. 2016: 197), it has not yet offered deep examination of state responsibility beyond the core rule. In principle:

> Destination states pursuing border externalisation strategies may come to be responsible (as a matter of international law) for rights violations outside of their own territory, as at a minimum they are responsible when they exert control over the acts of third countries. (Podkul and Kysel 2015: 10–11)

This raises questions about what level of control is invoked by different instruments or forms of externalisation, and how to evidence this.

McNamara (2013) considered state responsibility for the externalisation of migration controls by member states of the European Union, examining the nature of different instruments and the amount of control they exert in implementation. Distinguishing between 'externalisation' (where the destination state has direct control of its border management within a third state) and the 'external dimension' (the indirect implementation of destination state policy) of controls, he argues that most instruments will fail to satisfy the threshold for 'effective' control. In the case of instruments with an external dimension that are not directly implemented by the destination state, "[c]ontrol to a level below 'effective' control is still held by the State" where the controls are implemented (McNamara 2013: 324). Although literature on state responsibility examines destination state responsibility (McNamara 2013, Podkul and Kysel 2015, Frelick et al. 2016), there is lesser consideration of transit state responsibility or conceptualisation of human rights violations beyond increased indirect violence or the actions of state agents during apprehension and detention.

The third aspect of state responsibility that is pertinent here is state responsibility for the acts of organised criminal actors. Some studies have started to evaluate how international human rights law can be used to explore aspects of state responsibility for the acts of organised crime (Gallagher 2010, Hauck and Peterke 2010, 2016, Gallagher and David 2014, Guercke 2021), the state as an actor within international criminal law (Obokata 2010), and corruption related to organised crime as a state crime (Gallagher 2010, Gallagher and David 2014). Witte and De Vos (2016) evaluate responsibility for the widespread and systematic violence of both state and non-state actors as crimes against humanity, arguing that large organised crime groups, such as the Zetas, are 'organisations' within the International Criminal Court's definition, and thus bear responsibility. To draw parallels with responsibility for the acts of other non-state actors and to frame the human rights implications, commentators have drawn on principles under international human rights law (such as due diligence), on ARSIWA,[8] and on comments from treaty-monitoring bodies and rulings of international courts regarding non-state actors (Hauck and Peterke 2010, 2016, Gallagher and David 2014). One such clarification notes that the principle of due diligence obliges states to "take adequate preventative measures in order to protect individuals against reasonably foreseen threats of being murdered or killed by criminals and organized crime or militia groups" and to "take reasonable, positive measures . . . in response to reasonably foreseeable threats to life originating from private persons and entities whose conduct is not attributable to the State".[9]

International courts have become progressively more expansive in their interpretation of state responsibility for non-state actors. In 1986 and again in 2007, the International Court of Justice (ICJ) ruled that state responsibility stemmed from *effective control*, whereas the International Criminal Tribunal for the former Yugoslavia (ICTY) departed significantly from this and ruled that *overall control* was sufficient to denote state responsibility.[10] Although these rulings address armed groups within the context of justifying the use of force against them, much of their reasoning is valid for examining other non-state actors, and commentators (Gallagher 2010, Hauck and Peterke 2010, 2016, Gallagher and David 2014) have relied on these to examine some aspects of state responsibility for organised crime. However, one problematic element of these court interpretations of state responsibility for armed groups as non-state actors is that they do not account for factors pertinent to organised crime and their strategies for criminal governance (see Introduction) – such as state corruption, complicity and collusion with such groups, impunity for their actions – or for criminal groups' lack of explicit political objectives (other

than to maintain territorial control). These specific aspects of organised crime could add significant depth to arguments about state responsibility. Gallagher (2010) and Gallagher and David (2014) have started to address the corruption element of this, drawing on ARSIWA[11] to consider state responsibility for corruption related to people-smuggling and human-trafficking. They explain how such acts are attributable to the state and that the unauthorised or *ultra vires* nature of the acts of state agents does not lessen state responsibility.

Guercke (2021) applies human rights law to examine the extent to which states might be held responsible for failing to prevent acts that violate the right to life perpetrated by organised crime groups in a context of widespread criminal violence, such as is seen in parts of Mexico and Northern Central America. They note that the situation in Mexico "highlights the need to consider the State's actions and omissions which enabled the commission of such crimes in the first place, and the extent to which these can give rise to its international responsibility beyond the issue of human trafficking or smuggling" (Guercke 2021: 332). Guercke examines states' positive obligations to protect the right to life and prevent violations of this, the different approaches employed in regional human rights jurisprudence – source-based and victim-based – to determine state responsibility for the acts of non-state actors, and the legal questions raised regarding state responsibility for disappearances perpetrated by organised crime groups in Mexico. Guercke argues that the source-based approach provides stronger analysis of state responsibility for failing to prevent violations perpetrated by organised criminal groups because it "takes into account the relationship between State and crime, as well as the specialised international legal framework to counter organised crime and corruption" (Guercke 2021: 332). A victim-based approach is unsatisfactory because it presupposes a clear distinction between the state and non-state actors, "ignoring the State's role in the creation of risk and the structural factors . . . especially the case in contexts of widespread impunity and corruption, which perpetuate private violence" (Guercke 2021: 357). Guercke argues that it is crucial that "the State's awareness of a general risk, and its contribution to exposing society at large, or particular groups of individuals, is taken into account to establish an obligation to act diligently to prevent violations" (Guercke 2021: 357) and that contextual factors such as corruption and impunity must be determined as part of the unlawful act in order to inform reparations – notably to guarantee non-repetition.

Some novel questions arise from this about state responsibility for these three aspects, both individually and at the points where they intersect. These include: state responsibility for externalisation instruments

where their implementation violates the principle of non-refoulement; transit state responsibility for the adverse outcomes of externalised migration controls; impunity, and how far state responsibility for the acts of non-state actors extends beyond the principle of due diligence; the implications for state responsibility of corruption related to people-smuggling; and responsibility for the foreseeable adverse consequences of policy delivered in an environment of systemic corruption and impunity.

Deportations under *Plan Frontera Sur*: state obligations versus policy outcomes

Chapters 1 and 2 outlined the various push factors that shape migrants' decisions to flee criminal violence in Northern Central America and join the migratory flow to Mexico, highlighting that some may have international protection needs. This section shows how the implementation of *Plan Frontera Sur* fits beside Mexico's international obligations towards people from Central America. By analysing how the decision to implement it came about, the actual outcomes of the policy and its adverse consequences, it is possible to understand how that policy affected Mexico's ability to comply with international obligations regarding deportations and with its own legal framework for international protection.

Obligations to those with potential international protection needs

Although states have the sovereign right to control their borders and to remove aliens from their territory or refuse them entry, this prerogative is trumped by the international obligations they hold to potential refugees. States are not obliged under international law to admit refugees or to grant every application for asylum, but they are prohibited from returning people to a country where their life or safety is in danger or where they may be subjected to persecution. Mexico has a robust *de jure* legal framework for international protection, with its obligations under international and regional human rights and refugee law codified in domestic laws.[12] Mexico's Law on Refugees, Complementary Protection and Political Asylum (*Ley sobre Refugiados, Protección Complementaria y Asilo Político*) adopts the extended definition of refugee recommended by the Cartagena Declaration, provides expanded grounds for protection from discrimination and persecution, and grants protection for those fleeing generalised violence.

While some Central Americans who fled criminal violence in the mid-2010s were claiming protection in Mexico, by 2015 human rights organisations and academics were expressing concerns about the number of Central Americans that Mexico was deporting, the speed with which these deportations were carried out and the state's possible non-compliance with the principle of non-refoulement and the right to claim asylum. Nonetheless, these deportations appeared to be a core outcome of *Plan Frontera Sur*, therefore any violations of Mexico's obligations under the principle of non-refoulement were a direct consequence of this policy. Contemporaneous reports from human rights organisations and the media documented some of the extreme risks faced by both minors and adults deported without adequate screening or after a failed asylum application, including examples of people who were killed shortly after their return (Amnesty International 2016, 2018, Human Rights Watch 2016a).

Further to international obligations on the principle of non-refoulement, Mexico's domestic laws provide additional protection against deportation for minors, allow for a humanitarian visa for unaccompanied minors, and place obligations on state agents to refer those who may have potential international protection needs to COMAR (Mexico's refugee processing agency, *La Comisión Mexicana de Ayuda a Refugiados*).[13] Despite this, there was a considerable increase in deportations of Central American minors from Mexico following the implementation of *Plan Frontera Sur*. Official figures from the Mexican migration policy unit indicated that the number of minors deported from Mexico to El Salvador, Guatemala and Honduras rose 350% between 2013 and 2016, resulting in 37,759 minors being returned in 2016. Rules on related laws and policies made it extremely difficult for unaccompanied minors to access the protection and regularisation options to which they were entitled. Policy rules in place in the mid-2010s made it impossible for unaccompanied minors to claim either asylum or the humanitarian visa unless they had both a legal guardian in Mexico and a legal representative to file applications.[14] Under Mexican law, deportations of minors should only be conducted when this is in the best interest of the child; however investigations found that the state did not consistently "consider the risks run when the minors return to their country, where their physical and psychological integrity – and above all their lives – are put at risk" (REDODEM 2014: 65). Mexico's Child Rights Law and Migration Law prohibit detaining minors in migration detention centres except in exceptional circumstances and, as detailed above, allow deportation only when this is in the best interest of the child. Nonetheless, in 2016, human rights organisations and researchers found that significant numbers of minors were being held in migration detention and subsequently deported.

Implementation of *Plan Frontera Sur*: a morphogenetic perspective

Although Mexico implemented *Plan Frontera Sur* within its territory, this decision was influenced – if not compelled – by political and financial pressure from the USA. Its implementation was triggered by the arrival of significant numbers of Central Americans at the US border (see Chapters 1 and 4). Looking at this implementation from the perspective of state agency, the decision by the USA to formulate the policy resulted from concern about the high number of migrants – especially unaccompanied minors and family units – arriving at its border. Mexico's decision to implement the policy, however, was precipitated not by the flow of transit migrants but by political pressure and financial incentives from the USA. Mexico's agency in this decision was exercised within the context of this pressure, without which the policy may not have been implemented. In some ways, these contextual factors of political and financial pressure compromise state integrity because they compel the transit state to partially relinquish its sovereign right to control its own borders and to put the interests of the destination state above its own. This pressure can, in turn, lead to violations of the transit state's international obligations to those on its territory, such as deportations conducted without due process.

The actual implementation of *Plan Frontera Sur* on the ground appeared to differ somewhat from the declared objectives, which, according to experts I interviewed, comprised only of actions to limit transport options and to apprehend and deport migrants. Although undocumented entry into Mexico had been decriminalised in 2008, the implementation of *Plan Frontera Sur* in August 2014 enforced harsh in-country migration controls in areas where Central American migrants were known to travel. These included highway patrols and checkpoints, measures to prevent travel on trains, raids on hotels and swoops on moving vehicles by mobile immigration units. Experts noted that although some INM (*Instituto Nacional de Migración*, the National Institute of Migration) agents were transferred from the north of Mexico to the south, statistics on the number of detentions in the south attested to closer collaboration between the INM and other authorities in these operations, including federal, state and municipal police, the army and the marines.[15]

Within just two months – between August and October 2014 – the number of people detained each month by the INM had doubled and, by May 2015, this had tripled from 6,765 to 18,284, according to official figures.[16] The rise in the number of deportations of unaccompanied minors and family units with minor children was marked: there was a 350% increase in deportations of minors during 2016 compared to 2013,

with 81,261 deportations of minors between August 2014 and the end of 2016. As discussed in Chapter 4, after the initial drop in apprehensions at the US border, the policy was not consistently effective in preventing Central Americans from reaching the USA. Furthermore, deportation figures indicate that the restrictive policy actions may not have been applied as rigorously to nationals from countries outside Northern Central America, as similar increases were not apparent for nationals from other countries.

Despite the new structural factor of harshly enforced migration controls after the implementation of *Plan Frontera Sur*, the policy was successful in stopping migrants from arriving at the US border for only the shortest of terms. The new factors of these controls, together with political pressure and financial incentives from the destination state, did result in a greatly increased number of deportations from Mexico, according to official data from the Mexican migration policy unit. Despite this, the number of apprehensions of family units and unaccompanied minors at the US border increased significantly after an initial fall, according to official data from US Customs and Border Protection.

Given the extant contextual factors that affect migrant agency – namely their reasons for mobility and their access to people-smuggling services to help facilitate their journeys – *Plan Frontera Sur* was unable to prevent further new migrant arrivals at the US border. This shows that migrant agency is more powerful than the changed structural situation in migratory transit and continues to be exercised within its constraints – meaning that, although they may need to adopt tactics to avoid state agents and apprehension, people are not deterred from travelling. This was evidenced by the continuing flow and, notably, in the high number of those who continued with repeat migration immediately after their deportation from Mexico: a third of the people I interviewed at the *Albergue* had been deported following a previous migration since its implementation.

Adverse consequences of *Plan Frontera Sur*

Although *Plan Frontera Sur* purported to protect the human rights of migrants, it appeared to have had three key adverse outcomes on the human rights situation for Central American migrants in Mexico, which worsened. Firstly, there appeared to be significant numbers of deportations that may have violated international norms on non-refoulement, legal protection from deportation for minors, and access to regularisation options provided by Mexican domestic laws. Secondly, the implementation in practice resulted in increased abuse from Mexican officials and authorised private security staff. Thirdly, the security situation for migrants deteriorated significantly, marked by an increase in criminal

attacks in southern Mexico and heightened marginalisation of migrants during transit. These three outcomes can be defined as:

1. human rights violations perpetrated in order to deliver the policy
2. human rights violations perpetrated during the execution of the policy
3. adverse consequences of the policy.

Despite the declared agenda of *Plan Frontera Sur*, there was no evidence that it helped migrants or protected their human rights. Rather, as detailed in Chapters 2 and 3, the security situation for migrants passing through southern Mexico deteriorated significantly. Following its implementation, there was a substantial increase in crime reports and of reported human rights violations and extortions perpetrated by state agents and private security (REDODEM 2014, Mariscal and Truax 2015, Knippen et al. 2015, International Crisis Group 2016, Human Rights Watch 2016, Sanchez Soler 2016a, 2016b, Hiemstra 2019).

Concerns were also raised about the manner in which migrants were apprehended, with human rights organisations describing these as *cacerías* or 'hunts'. NGO and media reports documented the deaths and injuries of numerous people in road vehicle accidents during pursuits by INM and in immigration raids on moving trains, the repeated use of electroshock weapons during raids, and robberies and assaults by INM agents and by security guards on the trains collectively known as *La Bestia* (Knippen et al. 2015, Tuckman 2015, Castillo 2016, International Crisis Group 2016, REDODEM 2014, Pombo et al. 2016, Sanchez Soler 2016b, Hiemstra 2019). Such incidents were recounted in testimonies by migrants during my fieldwork at the Returns Centre in Santa Tecla and the *Albergue* in October and November 2015, and reported to me in interviews with people working with migrants and in shelters in southern Mexico. Several experts I spoke with described the use of racial profiling during immigration operations and apprehensions, and I witnessed incidents of racial profiling by INM agents when travelling on local buses in southern Mexico during my fieldwork.

The influence of the destination state – in the form of both political pressure and financial incentives – was a new contextual factor that affected the agency of the transit state, by encouraging the detention and deportation of as many Central Americans as possible. Nonetheless, prior to this, Mexico did not have a good record of upholding the human rights of undocumented migrants within its borders. Given the extant structural and contextual factors, including the poor human rights outlook for Central American migrants in Mexico and a history of extortion and other forms of abuse by Mexican state agents, the implementation of

Plan Frontera Sur did not uphold – let alone improve – the human rights of undocumented migrants. On the contrary, it led to a worsening of the human rights situation for undocumented migrants in Mexico and to increased abuse by state agents.

Deportations that may not meet legal obligations

In addition to some of the practical barriers to protection expressed by respondents in Chapter 2, in practice, the in-country migration controls delivered under *Plan Frontera Sur* brought further challenges to the migrants' ability to claim asylum. The implementation of these changes was largely characterised by a dramatic increase in deportations from Mexico and initially resulted in fewer people being apprehended at the US border. Expedited deportations and pressure from the USA to increase the number of deportations appeared to result in a situation where the Mexican state was arguably remiss in fulfilling its duty to ensure effective screening for risk prior to deportation and its obligation under international law to guarantee non-refoulement.

Human rights organisations and analysts raised concerns at the time that Mexico was not undertaking adequate screening prior to deportation (Domínguez Villegas and Rieteg 2015, Isacson et al. 2015, Podkul and Kysel 2015, Schoenholtz et al. 2015, Amnesty International 2016, International Crisis Group 2016, Human Rights Watch 2016); claims that were reflected in my 2015 fieldwork with migrants in the *Albergue*. Of the interviewees whose reasons for leaving their country indicated potential international protection needs, 43% had been deported from Mexico on a previous attempt during the same year. Had effective screening been carried out, it is unlikely that these people would have been deported due to these potential protection needs and the risks they faced on return to their country of origin. Over two-thirds of these people had told an INM agent about their fear of the danger of returning home but they were all deported nevertheless. All but one had left their country again following deportation (one was at the Returns Centre and said he planned to leave immediately) and two of them had applied for asylum in Mexico on their return.

Verbal claims for asylum must be accepted under Article 18 of Mexico's Asylum Law. Accordingly, if a person tells any government official that they are frightened to return to their country, this should trigger a referral process (known as *canalización*) that will result in assessment by the Mexican asylum processing body, COMAR.[17] However, my fieldwork data indicated a failure by officials to respond to verbal asylum claims and to refer people to COMAR. Of the twenty-eight people I interviewed at the

Albergue whose reasons for leaving their country indicated some degree of potential international protection needs, nine had told a Mexican state official that they were frightened to return to their country and some had pleaded with the official not to send them back. The majority of these verbal claims happened during apprehension or in migration detention, either in local facilities or the large migration detention centres where deportations are arranged. They were usually made to INM agents, although a couple of respondents had informed the police involved in their apprehension. People said that their claims had not been taken seriously and that nothing happened afterwards, and not one person was put into the referral system nor informed about it.

All of those who had told INM agents on a previous attempt that they were frightened to return to their country were subsequently deported. One Honduran man said that he told the Federal Police, who had rescued him from an attempted kidnapping and shooting, that his life was at risk and asked them not to return him to his country. The police took him to INM, but INM agents only told him about how to apply for the humanitarian visa as a crime victim and did not mention asylum. A young Salvadoran man said he had told INM agents at the migration detention centre in Tapachula that he was afraid to return, but they ignored him and told him to go back to his own country. Even after he had repeated that he was scared to return, still no action was taken and no information about asylum was offered. Two Salvadoran men recounted that had been deported twice that year, despite having expressed their fear of returning to Mexican state officials on both occasions. One of them, who had fled death threats and attempted murder, had been detained at both Tapachula and Acayucan in Mexico. He said that on both occasions, he had explained that his life was at risk if he returned, but: "They just told me to apply for asylum. But they signed my deportation papers both times and deported me. They did not offer any advice or support or information on how to apply. They told me to go to my consul."

Even those who had met with their consul did not achieve an appropriate outcome. A 34-year-old trans woman from El Salvador, who had received death threats from gangs, explained: "I told the consul I was scared to return. They did nothing and weren't concerned." Similarly, a Guatemalan bus driver, who had been shot and almost killed by gangs after he failed to pay extortion, was referred to his consul while in migration detention in Tapachula. He recounted:

> The consul came and told me about COMAR who could help me. But they said that I would be better off returning to Guatemala and then coming back again, because the conditions in migration detention were so bad

> and the application process so long. So, the Consul signed my deportation and advised me that I could come back to Mexico and go to COMAR.

In both cases, the consuls signed their citizens' deportation papers and the people were deported, despite the risk to them in their country of origin. These two respondents immediately left their countries following deportation because of the ongoing risk to their lives and were both in the process of claiming asylum in Mexico at point of interview.

It is clear from the accounts in my fieldwork and those documented by human rights organisations that *Plan Frontera Sur* resulted in deportations that did not comply with Mexico's international obligation to guarantee non-refoulement. Data gathered in interviews with both experts and migrants showed that people were being pressured into being deported rather than being supported to claim asylum, and that others were being deported without appropriate screening. Although some commentators argue that "the Peña Nieto administration shares a substantial amount of the responsibility for this outcome with its northern neighbour" (Castillo 2016: 4), Mexico is still wholly responsible for ensuring that deportations are conducted in line with its obligations under international law and with the principle of non-refoulement.

External pressure from the destination state– in this case the USA – appears to have compromised Mexico's agency somewhat and incited large numbers of expedited deportations. Nonetheless, there are other contextual factors that added to this outcome, notably: the extant poor human rights outlook for transit migrants in Mexico; insufficient capacity of state agencies, including COMAR and DIF (Sistema Nacional para el Desarrollo Integral de la Familia, Mexico's agency for social assistance); corruptible state agents; and the perception among undocumented migrants that they did not have rights or that they were not potential refugees. However, one critical factor in this is the political influence of and ongoing financial incentives from the destination state, manifesting in mass deportations in the attempt to prevent people from continuing to the US border. Such pressure and payments led to the removal of safeguards when returning people, with a vastly increased number of deportations, expedited deportations and deportees being "processed" rather than screened.[18] This outcome was driven by political pressure and financial incentives from the USA.

Financial incentives

Mexico was receiving funding and technical support for migration controls and initiatives from the USA, which allocated US$75million to the

INM in 2016 alone (Frelick et al. 2016, Seelke and Finklea 2017). These funds were "meant to entice Mexico into securing its southern border – likely through the endeavours of *Plan Frontera Sur*" (Castillo 2016: 5). Several experts I interviewed attested that the USA paid for *Plan Frontera Sur* but did not have evidence of the precise financial model; one said that a senior Mexican official told her that the USA paid 80% of its cost. Other respondents claimed that there was a payment for the deportation of each Central American and that INM agents were being paid 'per head' to catch and deport them.[19] This claim was repeated in the media, where Central Americans claimed immigration agents told them: "The gringos pay us to catch you" (Swanson et al. 2015). One expert I interviewed said that she had no doubt that this was the case but explained that it was hard to find evidence because there were no policy documents and "money goes through the Mérida Initiative, so it is hard to break down or to identify the performance-related part of it".[20]

The possibility of performance-related payments was also reflected in the narratives of migrants interviewed at the *Albergue*. Several respondents related that taxi drivers or Federal Police had delivered them to INM agents and they appeared to have received payment in return. They told me: "The taxi driver dropped me at the *migra*. He sold me!"; "I think there is a little business going on between federal police capturing migrants and the *migra* . . . maybe some 'gifts' being given". If, rather than financing the operations generally, the USA were paying *per deportation* and the INM agents were receiving a bonus for each apprehension or deportation, then the level of influence within the framework would be greater. Depending on the model, such financial incentives could have the potential to compensate Mexico for acting contrary to its international obligations. Indeed, commentators have claimed that this means "the USA is funding and sanctioning state violation of migrants' rights" (Hiemstra 2019: 55).

Implications of political pressure and financial incentives

Political pressure and financial incentives from the USA led to the initial implementation of *Plan Frontera Sur* and, subsequently, to an increase in reported human rights violations and deportations conducted without due process. This illustrates how pressure from the USA not only compromised Mexico's decision-making and agency but also influenced the adverse human rights outcome of the policy. In this way, the USA was externalising its human rights obligations, particularly in relation to unaccompanied minors, family groups and those with international protection needs. Despite this new structural element, migrants continued

to travel, illustrating the fallibility of migration controls, in particular within the context of forced migration.

Although Mexico received significant funding from the USA to implement these external migration controls, this does not in itself imply any shift in accountability for the policy outcome. The extent of control – and therefore responsibility – depends on the nature of externalisation instruments. Ostensibly, *Plan Frontera Sur* appears to fit most fully in McNamara's (2013) conceptualisation of the "external dimension", which would not pass the threshold for effective control. As such, the implementation of externalisation instruments under the policy does not comprise 'effective control' by the destination state, and Mexico bears responsibility for all its outcomes. However, if the financial package had included targeted payments based on the number of deportations –that is, if the USA were paying *per head* of deported Central Americans, rather than financing the operations generally – the level of control it exerts on the actions of a third state would be somewhat different. This would make the pressure on Mexico more direct and could shift greater accountability for the adverse outcome of meeting such targets to the USA. Such a financing structure could pass the threshold of effective control, because it provides incentives to conduct specific activities and could encourage increased or expedited deportations that may in some cases breach the principle of non-refoulement.[21] These findings have implications for notions about state accountability for the outcome of externalised migration controls and any directly resultant human rights violations, not least because, as set out in ARSIWA Article 16, "it is a violation of international law for States to directly support the internationally wrongful acts of another State" (Frelick et al. 2016: 197).

The state, abuse by organised crime and impunity

Chapter 3 explored how policy events led to the development of direct violence as a threat during migratory transit through Mexico, resulting in widespread and systematic abuse by organised criminal groups. We saw how this was a consequence of policy, but one that was foreseeable given the pre-existence of indirect violence during transit and official tolerance thereof, arguing that the development of structural violence during transit was *collateral damage* rather than merely the unintended consequences of migration control.

This section examines Mexico's action and inaction in relation to widespread and systematic abuse against migrants during transit, and how this has manifested in impunity for and the perpetuation of this direct violence.

It analyses how inaction led to the further development of an environment of impunity for the abuse of migrants and how, once impunity was established as a contextual factor, this led to the widespread and systematic nature of this abuse within the context of criminal governance and the corruption and impunity that underpin this. It then explains why subsequent policy implemented in this environment of endemic violence and impunity is likely to result in foreseeable adverse consequences, and examines how states may be aware of such outcomes. It then reflects on what morphogenetic analysis can reveal about whether such outcomes would have been anticipated and accepted, rather than merely foreseeable, and on states' accountability for the resulting 'collateral damage'.

State responsibility for acts of non-state actors: due diligence and beyond

While International Human Rights Law (IHRL) does not strictly impose obligations on non-state actors, "it has been widely recognised that States can be held liable for the acts of non-state actors in certain circumstances" (Obokata 2010: 46). Human Rights Committee (HRC) General Comment 31 on the extent of state responsibility under the International Covenant on Civil and Political Rights (ICCPR) clarifies, at para. 8, that the state "must protect not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights". To comply with due diligence obligations towards the right to life, states must "take adequate preventive measures to protect individuals against reasonably foreseen threats of being murdered or killed by criminals and organized crime or militia groups".[22] States can violate their obligations by "permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities".[23] This includes the requirement to "take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence", including "displaced persons, asylum seekers, refugees and stateless persons".[24]

It is somewhat less clear what degree of state responsibility for the acts of non-state actors there could be beyond the state's positive obligations under this due diligence. Interpretations of the American Convention on Human Rights (ACHR) clarify that

> the State can bear some responsibility for acts by private individuals in cases in which, through actions or omissions by its agents when they

> are in the position of guarantors, the State does not fulfil these *erga omnes* obligations embodied in Articles 1(1) and 2 of the Convention.[25]

Nonetheless, the notion of state responsibility for the acts of non-state actors "appears to be in flux as those responsible for the interpretation and application of international law are confronted with new situations and new challenges that strain traditional doctrines of attribution" (Gallagher and David 2014: 290). Although responsibility for the acts of non-state actors is less explicit, Mexico has clear obligations under the principle of due diligence to prevent, punish, investigate or redress the crimes committed against migrants by non-state actors (see Guercke 2021).

The scale and persistence of abuse against migrants, however, indicated that Mexico was failing significantly in these obligations, and criminal groups continued to abuse and exploit migrants with near-absolute impunity (Knippen et al. 2015, International Crisis Group 2016). Not only was the widespread and systematic abuse of migrants being allowed to happen and to persist, but this impunity for crimes against migrants encourages their replication. An expert I interviewed explained: "the Mexican government's decision not to investigate or punish aggressions against migrants is a form of inviting criminals to do more, to seek out these targets".[26] Although authorities know where abuse occurs and where kidnappings take place, they do not have any presence in these areas and do not intervene and prevent them. As one expert clarified: "It's like an unwritten agreement that divides territories – often between authorities and narco-trafficking gangs".[27] Moreover, this is a critical aspect of criminal governance (see Introduction) and a deliberate strategy to maintain it.

Despite significant numbers of disappearances and deaths and the discovery of mass graves of migrants, Mexico has generally failed to investigate the situation or to proactively search for bodies. There are a variety of reasons for this failure to investigate and significant obstacles to doing so, from the practical (including a lack of technical capacity or specialised personnel), to obstacles posed by organised crime (such as opposition and threats from powerful organised crime groups or restricted access to territory that is under the control of a criminal group), to a lack of genuine political will. While some claim the desire to investigate may be present at the level of national government and state institutions, many experts I interviewed said that the overriding reasons for this not happening are the lack of state pressure at a federal level, impediment by organised crime and political disinterest that has its roots in either fear or complicity. Indeed, given the collusion between some state agents and

organised crime, such absences and omissions could be driven by deliberate oversight, acquiescence or passive complicity – a deliberate intent to hide the problem, as one expert put it. Nonetheless, while people may blame the criminal groups that perpetrate this abuse, "very few people speak of the responsibility of the State in relation to this violence, and the decision of the Mexican state not to do anything".[28]

Although Mexico has taken some steps towards punishing crimes against migrants, their results and efficacy are not wholly apparent. In 2008, the state government in Chiapas created the *Fiscalía Especializada en Delitos Cometidos en Contra de Inmigrantes* (special prosecutor for crimes against migrants) to investigate and prosecute crimes against migrants, such as extortion, human trafficking and theft. A decade later, there were *Fiscalía Especializada* offices in several states in Mexico, working with migrant shelters and organisations to help facilitate crime reports (Isacson et al. 2014, Knippen et al. 2015). Despite this, there were few investigations into crimes against migrants, and scant prosecutions (Amnesty International 2010, Knippen et al. 2015, International Crisis Group 2016). As an example, between 2000 and 2015 there were just thirty-three investigations into kidnappings in the whole of Mexico, even though there were approximately 20,000 kidnappings per year.[29] Similarly, the *Fiscalía Especializada* in the state of Oaxaca received 383 crime reports over four years but started just ninety-six preliminary investigations into them, resulting in the prosecution of just four perpetrators (Knippen et al. 2015). The Inter-American Commission on Human Rights expressed "deep concern at what is clearly the State's patently inadequate response in terms of the investigation, prosecution, and punishment of such crimes" (IACHR 2013). Further to these low rates of investigation and prosecution, the *Fiscalía Especializada* has "no jurisdiction over serious cases involving organised crime and does not investigate corruption and abuse by immigration agents, police or other officials" (International Crisis Group 2016: 12). This lack of jurisdiction is somewhat perverse given that organised crime and corruption are deeply linked in Mexico and that the abuse of migrants is known to be perpetrated by both criminal and state actors. Despite these steps, criminal groups continued to abuse migrants with near-absolute impunity and this situation persists.

Morphogenetic perspective on state inaction: from tolerance to impunity

Policy events in 2006 and 2014 (see Chapter 3) resulted in adverse consequences in terms of the development of structural direct violence as a threat during transit. The first of these policies was delivered in a

context of state tolerance for pre-existing, structural indirect violence during migratory transit. This first policy resulted in the development of direct violence against transit migrants, forming the context in which the second policy was delivered. Parallel to this was the entrenchment of impunity as a contextual factor that accompanies this violence. Just as the pre-existence of indirect structural violence was a contextual factor in the development of direct violence during the transit portion of migration, the tolerance for indirect structural violence was a contextual factor in the development of impunity for direct violence.

The source of this impunity is in state inaction – whether due to a lack of political will or of legal, technical or personnel capacity – and, specifically, its failure to undertake its obligations under the principle of due diligence. Other contextual factors contribute to this impunity, including the absence of the state–citizen bond, the physical and social marginalisation of migrants during transit, and the ability of powerful criminal groups to corrupt state agents. Impunity then acted as a significant causal mechanism in the perpetuation of widespread and systematic abuse, enabling its establishment as a structural force during transit. In this way, impunity is not just a failure to prevent and punish but has causal properties that formed the context for the development and continuation of abuse, precipitating the replication of violence and abuse on an industrial scale. Nonetheless, this is logical, given the symbiotic relationship between organised criminality and corruption, between criminal groups and the state, that underpins criminal governance (Moncada 2016, 2021, Durán-Martínez 2018, Lessing 2020, Magaloni et al. 2020).

The state has a duty to take measures to prevent this violence by undertaking its obligations under the principle of due diligence. Its failure to do so has had the converse effect, aggravating the situation by enabling further abuse. In this way, the state acted as an incubator of violence and abuse, rather than as a disruptor. State inaction, then, is a negative form of agency that results in the causal factor of impunity. This contrasts with the expected positive manifestation of agency in the form of actions in accordance with obligations under due diligence, which would serve to disrupt and prevent further abuse.

Impunity and the foreseeable adverse consequences of policy: insight from morphogenetic analysis

Impunity was a contextual factor when *Plan Frontera Sur* was implemented, enabling a structural elaboration in the modus operandi of criminal groups in southern Mexico that manifested in systematic attacks on those taking new routes through this region. This analysis

now examines the broader implications of endemic impunity and violence for policy, and the extent to which the adverse consequences might have been foreseeable or anticipated. Some commentators have argued that states have acted and implemented policy despite the foreseeable nature of their adverse consequences, notably in how policy led to increased border deaths and indirect violence during transit (Grant 2011, Weber and Pickering 2011, Michalowski and Hardy 2014).

This raises questions about whether the consequences of migration controls are wholly unintended. Some maintain that it is a deliberate move when policy is deployed in spite of the foreseeable consequences, arguing that such consequences are not "an unavoidable outcome of otherwise sound state policy. It is the result of a deliberate strategy of causing harm to undocumented immigrants in the hopes that they will go away" (Michalowski and Hardy 2014: 108). Noting the acknowledgement of US Border Patrol that migration controls would result in people risking "mortal danger" on marginalised routes across the border, they argue that deaths and harm:

> are not the unintended collateral damage of otherwise benign immigration policies. They are the known and predictable results of border militarisation strategies designed to force migrants towards dangerous crossings. US policy planners made the deadly consequences of border militarisation part of their overall plan, [. . . and] forcing desperate migrants to make hazardous journeys was seen as an important 'deterrent' rather than a violation of human rights and thus a state crime. (Michalowski and Hardy 2014: 95)

In this way, the harm experienced by migrants during transit through Mexico is the anticipated collateral damage of policies: "the crude and brutal arithmetic of migrant death has too often been seen by policy makers and the media as no more than a side effect of border control" (Grant 2011: 69).

Just as border control has resulted in indirect violence in border zones or at sea, so, too, has it led to direct violence and the systematic abuse of migrants. In 2010, the Mexican defence minister Guillermo Galván said that civilian deaths were an unavoidable outcome of the 2006 'War on Drugs' policy and that the policy would continue despite the deaths of civilians, children, students and young adults, which were "unfortunate collateral damage" (Ballinas 2010). It follows that the persistence of direct violence against migrants is also collateral damage that resulted from the same 2006 policy and increased following subsequent policies. Nonetheless, the concept of 'collateral damage' has "inbuilt *implicatory denial* . . . where governments actively seek to justify harmful actions, or

at least deny moral responsibility for them" (Weber and Pickering 2011: 65). Given the pre-existence of structural indirect violence in 2006 and direct violence in 2014, together with endemic impunity, the adverse outcomes of policy – while not necessarily intended – must have been foreseeable to some extent. Indeed, just as states are aware that increased indirect violence results from more restrictive migration controls and "is a calculated consequence or 'collateral damage' – therefore an intentional policy. So too, with *Plan Frontera Sur* we have the same – that the implementation of the policy leads to people dying."[30]

By revealing the causal effect of impunity, my analysis shows that the adverse consequences of policy delivered in an environment of endemic impunity and criminal violence are foreseeable. The demonstrable causal effect of impunity raises questions about how far state responsibility may extend beyond due diligence for the acts of organised crime as non-state actors when adverse consequences are foreseeable and accepted as "collateral damage". Of course, intent cannot be established, but morphogenetic analysis shows how such consequences can be considered to be both foreseeable and accepted, with state inaction forming part of the continuing cycle of criminality that both feeds and is fed by impunity.

Implications of 'collateral damage' for notions of state accountability

State inaction and tolerance have created a dangerous environment of impunity in which to deliver policy. Impunity is counter to state effectiveness and the rule of law, and is evidence that the state is not fulfilling its obligations to investigate and punish criminal acts. Regardless of whether impunity derives from omission, inaction or deliberate will – or that it is a critical strategy of criminal governance – it has a significant impact on human rights during the transit portion of migration. As a result, impunity and corruption are factors that can have a deleterious effect on the implementation of certain policy – indeed, they should be considered 'red flags' in policy delivery – in particular, those concerning the externalisation of migration controls, especially where organised crime is a co-present contextual factor.

Mexico is fully responsible for the endemic impunity surrounding the abuse of migrants by organised criminal groups, because this violates its obligations under due diligence. Nonetheless, this impunity is also a causal factor in the aggravation and perpetuation of such abuse. Indeed, it was a key contextual factor for the involvement of organised crime in this abuse and in the development and perpetuation of direct violence

against migrants during transit. Rather than preventing violations and acting as a disruptor of criminality, the State incubated it.

These findings have implications for notions of state accountability because they expose these indirect causal mechanisms and the state's role in these, meaning that clear lines of accountability can be drawn. It could, therefore, be argued that the state should bear a more direct degree of responsibility for criminal abuse that resulted and became widespread and systematic because of impunity. The analysis also shows the foreseeable and therefore anticipated nature of this outcome – the very definition of 'collateral damage'. This raises questions about state accountability for such outcomes when the adverse consequences of policy would have been foreseeable.

The state and people-smuggling: the nexus of migration and corruption

Analysis of the evolution of people-smuggling (Chapter 4) examined the impact of *Plan Frontera Sur* on people-smuggling and related corruption, highlighting how it led to the increased complicity of the state in people-smuggling and collusion with organised crime. Concluding that this was at minimum a foreseeable consequence, this raised questions about state responsibility for knowingly delivering policy with foreseeable (or indeed intentional) consequences within an environment of systemic corruption. This section further examines the role of the state in people-smuggling and the impact of corruption in Mexico, looking at how collusion with organised crime impacts on policy outcome and state integrity, and exploring aspects of state accountability for the outcomes of policy delivered in an environment of systemic corruption.

Coexistence and collusion

Mexico is marked by systemic corruption, and collusion with organised crime is a major aspect of this. Indeed, corruption, co-optation, privileges and patronage have been integral to Mexican politics for many decades, and, in particular, to the operation of the PRI (*Partido Revolucionario Institucional*, the Institutional Revolutionary Party). Mexico's government has long had strong links and cooperation with organised crime in a form of *pax narcotica* or *pax mafiosa* (Buscaglia 2016), with complex interactions between state and criminal entities (Trejo and Ley 2020). Indeed, prior to Mexico's political transition in the 1980s, "the one-party State operationally 'managed' different organised crime networks with

an iron fist in order to serve the PRI's political machinery and the economic enrichment of its members" (Buscaglia 2016). This corruption and complicity seeped into other authorities, such as the police and armed forces, rendering Mexico's legislative, judicial and executive controls dysfunctional. This both perpetuates impunity and is perpetuated by it: impunity for the acts of organised crime groups in Mexico is partly a symptom of corruption and collusion of state actors, and partly a factor necessary for its very existence and criminal governance.

There is also longstanding and widespread impunity for corrupt state actors in Mexico, which further perpetuates corruption. This has led to a general situation where there are blurred lines between criminal violence and state violence, and where the co-opting and corruption of state agents means that organised criminal groups overlap with the modern state in a complex and varied set of interplays (Arias 2017, Lessing 2020, Magaloni et al. 2020, Feldmann and Luna 2022). Casillas contests that, "These organisations function in parallel, institutionalise their knowledge and rationalise their actions. Thus, the social conflict has neither cause nor solution" (Casillas 2015: 27, *my translation*). Indeed, Buscaglia argues that issues of corruption and collusion with organised crime are so embedded in the Mexican state that electoral reform must precede other anti-corruption or judicial reforms because of the golden rule of state-driven mafias: "the mafia-leadership may change but the political–criminal network stays intact" (Buscaglia 2016).

The collusion of Mexican authorities with organised criminal groups in both the criminal abuse and the smuggling of migrants has been well documented and is "indisputable" according to experts I interviewed.[31] Collusion with organised criminal groups may happen under differing levels of voluntariness: through omission and impunity, coercion enforced by threats or violence, corruption, active complicity or deliberate collusion. In the context of migration, this co-dependent relationship is most apparent in people-smuggling. Indeed, "corruption stands in the way of orderly migration management. [People-smuggling] is the most widely acknowledged connection between corruption and migration" (Carling et al. 2015). As such, people-smuggling in Mexico is the nexus of migration and corruption or collusion with organised crime.

This subversion of authorities through corruption is indicative of the symbiotic relationship between people-smugglers and the state, where corruption is simultaneously a tactic of organised crime and a condition for its development (Andreas 2011). Added to this, a weak rule of law is critical for organised crime to operate, and the ability to usurp the state's role and control the transportation of people across borders and territories is critical to successful people-smuggling operations. Further, the

usurping of government monopolies over border control and violence, and the co-opting and corruption of state agents, means that organised criminal groups "co-exist and overlap with the modern state and are as such an example of a 'coercive transition' in which nation states are losing power to non-state actors who take over their roles" (Sørensen 2013: 253–4). By usurping the monopolies of the state – violence, taxation and border control – organised crime's involvement is strengthened, while the state's effective presence is weakened. Inasmuch, it "is undeniable that by eroding the State's monopolies the current form of the nation-state is harmed" (Casillas 2011: 309).

Weakened state integrity

Challenges to state integrity derive in a direct manner from the participation of corrupt authorities in people-smuggling, and in an indirect manner from their complicity with organised crime. As criminal groups take increasing control of and higher profits from people-smuggling, there is a strengthening of organised crime and, at the same time, a weakening of state integrity. This weakening is not entirely parallel, however. While state agents may be corrupted by or collude with organised crime actors in the facilitation of people-smuggling, they also act distinctly and independently of organised crime, accepting bribes and allowing passage.

As detailed in Chapter 4, migrant agency led to state actions (the implementation of *Plan Frontera Sur*) that then manifested as a new structural factor in the migratory trajectory. This was implemented in an environment of systemic corruption, weak rule of law and a strong presence of organised crime with deep involvement in people-smuggling. These contextual factors together with continued migrant agency meant that, rather than stopping Central American migrants arriving at the US border, the policy resulted in greater reliance on people-smugglers and in increased levels of collusion and corruption to facilitate people-smuggling journeys. This corruption served as a contextual factor in the facilitation of successful people-smuggling journeys, indicated by greater numbers of Central American migrants arriving at the US border – the very problem that the policy was supposed to curtail. In turn, increased corruption led to the strengthening of the organised criminal groups involved in this activity, and a parallel weakening of state integrity and effectiveness.

There are three key indicators of weakened state integrity in this context: the usurping of the state monopoly on border control, more extensive corruption, and the undermining of the rule of law. The success of people-smuggling operations – demonstrated by the continuing arrivals of migrants at the US border – represents a usurping of states'

sovereign right to control their borders. In this context, corruption renders migration controls weak or futile, acting as a more powerful factor than these structural elements. The implementation of *Plan Frontera Sur* also appeared to lead indirectly to more extensive corruption, with a higher number of corrupt officials and corruption at more senior levels. A further manifestation of weakened state integrity is the undermining of the rule of law through corruption. Whereas impunity undermines the rule of law through the state's inaction or omission, corruption undermines it through the state's action – albeit *ultra vires* (that is, unauthorised) acts of state agents.[32]

This weakening of state integrity represents an elaboration of the state in a negative manner, being subverted by organised crime and corruption. In previous chapters, we saw how the position of the state as the only notable structural force within migration journeys had been changed by the development of organised crime as a structural force during transit – both as a threat during transit (Chapter 3) and as a facilitator of migrant journeys (Chapter 4). From a morphogenetic perspective, the weakening of state integrity and the usurping of its monopolies created a space or vacuum for organised crime to strengthen itself as a structural force. Thus, the coexistence of both organised crime and the state as structural forces both causes and is caused by impunity and corruption. As a result, by controlling territory, corrupting state agents and opening routes with bribes, organised crime has become a powerful geopolitical force that facilitates the movement of migrants more efficiently than the state is able to enforce migration control.

Implications of corruption for notions of state responsibility

Corruption and collusion related to people-smuggling increased as a result of *Plan Frontera Sur*, and this was foreseeable given extant systemic corruption, criminal governance and the complex interactions between various state entities and criminal groups in Mexico. Just as impunity is a contextual factor that can result in adverse outcomes for policy, so too does corruption have serious implications for policy. Instead of disrupting people-smuggling operations, the state is incubating them through its complicity in their facilitation. In contrast to the ostensible inaction of the state that results in impunity, this participation is active and thus has wider implications – namely a weakening of state integrity and effectiveness, and a parallel strengthening of organised crime groups. These findings have implications for our understanding of state accountability, primarily because the states are responsible for the acts of state agents – even when they are unauthorised or *ultra vires*. Due diligence, of course,

also applies to the situation of corruption related to people-smuggling, where "these obligations include, at minimum, preventing and responding to public sector involvement in the human rights violations associated with migrant smuggling" (Gallagher and David 2014: 526).

The dimensions of the state's role and responsibility

The empirical facts in each of the three scenarios demonstrate that the externalisation of migration controls to Mexico not only externalised the human rights obligations of the destination state but also aggravated the ongoing issues of organised crime involvement in migration activities in Mexico. While purporting to protect the human rights of migrants, there is nothing – either in documentation or in the policy outcomes – that indicates that *Plan Frontera Sur* was designed to do so. On the contrary, with its actual outcome indicated by high rates of apprehension and deportations of Central Americans from Mexico, it is evidently a deterrent policy that was intended solely to prevent people arriving at the US border.

As noted previously, large numbers of people who may have had potential international protection needs were being deported without adequate screening, verbal asylum claims were not being processed, and minors were being detained and deported contrary to domestic and international laws. Apprehension and detention were the mechanisms to deliver the planned policy outcome – to prevent people from Northern Central America arriving at the US border – and these led directly to adverse effects on human rights. Given the extant contextual factors and the continued flow of migrants (albeit with significantly constrained agency), the implementation of the policy resulted indirectly in further adverse consequences – notably, increased criminal attacks in southern Mexico and increased corruption related to people-smuggling, which in turn weakened the integrity of the Mexican state.

My analysis shows that such adverse consequences are foreseeable because of the persistence of certain contextual factors in the region. Given that the 2006 'War on Drugs' policy precipitated the development of organised crime as a threat during transit (Chapter 3), it would be logical to anticipate a further elaboration or intensification of abuse following the implementation of *Plan Frontera Sur*, based on this previous outcome and because of the persistence of contextual factors such as criminality and impunity. Despite the foreseeable nature of adverse consequences, and the states involved likely being aware of these, the policy was implemented nonetheless, indicating that the adverse impact on migrants was accepted as 'collateral damage'. Furthermore, the policy was ineffective

in stopping the flow of migrants, and this was also foreseeable given the contextual factors of people needing to migrate and the availability of people-smuggling services to facilitate their journeys.

The continuing flow of people is particularly pertinent in situations of forced migration, of course, because people will still move despite the risks, the deterrent policy and the absence of safe and legal passage. In this way, agency contributes to efficacy gaps in policy. An increase in people-smuggling and the subsequent strengthening of organised crime and weakening of state integrity were also foreseeable, given the known impact of previous policy, the established involvement of organised criminal groups in people-smuggling, and the persistence of corruption and collusion related to people-smuggling (Chapter 4). States would likely have been cognisant of a foreseeable increase in people-smuggling following *Plan Frontera Sur*. This is especially so given that the strengthening and streamlining of people-smuggling networks is argued to have been a deliberate outcome of the 2001 migration policy (Kyle and Dale 2011).

The morphogenetic framework is a useful tool to accommodate changed circumstances in subsequent iterations of policy and to give insight into the impact of contextual factors on policy outcomes. By analysing the outcomes of past policy, we can see that when policy was implemented in an environment of corruption, this precipitated further corruption and that an environment of impunity incubated the development of widespread and systematic abuse. Just as the morphogenetic framework accommodates past changes, it can also be used to project our findings onto potential future situations. In this way, it allows us to make reasoned evaluations of the likely outcome of future policy, based on the direct and indirect causal mechanisms and the patterns and dynamics revealed by analysis of previous policy outcomes. Given that the implementation of *Plan Frontera Sur* led, both directly and indirectly, to outcomes that conflict with Mexico's obligations under IHRL, this situation raises three specific points on state accountability. The key points of concern are: responsibility for either planned outcomes or adverse consequences of policy when these conflict with a state's obligations under IHRL; accountability when the adverse consequences of policy could have been foreseeable; and state responsibility for the widespread and systematic acts of organised crime – both indirectly (through inaction and impunity that enable such abuse) and directly (through complicity and corruption).

Recent debates around how migration controls can contribute to migrant deaths offer pertinent analysis of state accountability for the development and implementation of migration policy, and can be used

to explore state accountability for each of the aforementioned strands. Analysis of lines of accountability for both indirect and direct violence resulting from migration controls lends itself to being further developed to examine the more complex situations where there is state complicity with organised crime or when a policy has been externalised from the destination state. While states "are entitled to control their borders, they are also under a duty to establish and take into account the foreseeable impact of frontier control on human lives and human rights" (Grant 2011: 69) and to protect people's lives in migration policy as they do with any other state policy (Spijkerboer 2007). In terms of the development and implementation of migration policy, therefore, "the challenge for States is to limit access to their territories without undermining the right to seek and enjoy protection" (Koser 2005: 4).

Nonetheless, it is established that increasing border controls often results in increased fatalities and other adverse consequences for human rights. Despite the foreseeable nature of this, there is some debate about the extent of state accountability because, "in the strictly legal sense, there does not seem to be state responsibility for these fatalities" (Spijkerboer 2007: 136). Acknowledging that migrant deaths are a foreseeable consequence of increased border controls, Spijkerboer argues that:

> Although this does not lead to state responsibility, it does trigger a State's positive obligation to take preventive measures to safeguard the lives of those who are put at risk. In the context of border control measures . . . they are obliged to exercise their border controls in such a way that loss of lives is minimised. (Spijkerboer 2007: 138)

Grant (2011, 2016) builds on this, setting out the legal arguments for state responsibility for this type of policy-produced harm and for the mitigation of foreseeable risk. Weber and Pickering (2011) and Grant (2011) argue that states should be responsible for the foreseeable adverse consequences of policy and specifically for "the most common form of border-related death – that resulting from both the intended and unintended, though foreseeable, consequences of border protection" (Weber and Pickering 2011: 7). They demonstrate how

> border deaths, far from being random and unforeseen events, are significantly shaped by particular border policies and practices that have both local inflection and global significance [. . . identifying] border control policies as 'invisible actors' that contribute both explicitly and implicitly to the deaths. (Weber and Pickering 2011: 91–2)

This represents a more nuanced evaluation of the causal mechanisms and aspects of the state that may contribute to causality. Michalowski and

Hardy (2014) argue that the implementation of policies despite their known risks – or collateral damage – has been deliberate and claim this is a "state crime" because, in effect, it sanctions human rights violations. Even where migrant deaths have been attributed to direct action by an individual perpetrator or private actor, rather than indirect violence during migratory transit, it is found "upon further examination that government policies and institutions are complicit in the circumstances leading to such death" (Weber and Pickering 2011: 92). Although "the lines of responsibility leading to these deaths may be more clearly discernible [than those of indirect deaths] . . . they must also be understood as products of the social, legal and political context in which they are embedded" (Weber and Pickering 2011: 119).

The morphogenetic approach extends understanding about the adverse consequences of migration controls by identifying the causal mechanisms and allowing for a nuanced and comprehensive perspective on these. Notably, by identifying the causal properties of specific state action and inaction, and framing them within obligations under IHRL, this approach enables the lines of responsibility for the situation to be more clearly drawn. This is most apparent in the endemic impunity that conflicts with Mexico's positive duty to protect under due diligence. The replication of abuse precipitated by impunity further violates the obligation to prevent, and could arguably also invoke some degree of state responsibility for rights violations by private actors that result from the state's action or omission (Guercke 2021). It could, therefore, be argued that the state bears direct accountability for subsequent abuse perpetrated by organised criminal groups and ultimately for the nature of this abuse becoming widespread and systematic. This is more so because such consequences are quite foreseeable.

My analysis here also advances the debate on foreseeable adverse consequences (Spijkerboer 2007, Weber and Pickering 2011, Grant 2011, 2016) by examining the broader circumstances and contextual factors that both affect and are affected by migration controls. As well as extending this debate from its primary focus on border deaths to look at different manifestations of policy-produced violence, it builds on it by considering the impact of a wider range of dynamics and policy, rather than evaluating solely the consequences of migration controls. This approach allows exposure of the invisible causal mechanisms (Bakewell 2010), enabling stronger lines of accountability to be drawn and a better understanding of how subsequent policy will have adverse consequences unless contextual factors – such as corruption and impunity – are changed.

Corruption and impunity have key causal roles in the involvement of organised crime in migration-related activities in Mexico. The presence

of these factors fosters organised crime activity, providing fertile ground for it to flourish and preventing the state from discharging its positive obligations under due diligence regarding both the acts of private actors and the prevention of corruption. Further, although collusion with organised criminal groups may happen under differing levels of voluntariness, the state nonetheless has full responsibility for the acts of state actors even when their actions may be *ultra vires* or not authorised by the state. Indeed, we could question whether such collusion can be wholly defined as *ultra vires*, given the unofficial government acquiescence that has persisted for many years and the state's role in criminal governance (Trejo and Ley 2020).

Systemic corruption and collusion combined with endemic impunity in Mexico give strong grounds for arguing that there is a more direct line of state accountability, as has been explored by Guercke (2021), for the acts of organised criminal groups as well as those of state actors in relation to migrants. This is particularly so if a state is cognisant of the likely adverse consequences of policy delivered in this toxic environment – especially when these are a result of its own inaction, action or collusion. Their foreseeable nature, together with the state being aware of these likely adverse consequences, is the very nature of 'collateral damage'. These finding have implications for legal concepts of state responsibility and accountability for policy outcomes and for the criminal acts of non-state actors.

Notes

1. Although this was technically abandoned as a standalone programme in late 2015, its lines of action have been absorbed directly into the *Instituto Nacional de Migración* (INM) and its policy actions passed to the *Unidad de Política Migratoria* (Migration Policy Unit), which is the political body responsible for developing strategies and policies regarding migration. For ease, and because their effect on the ground was the same, I refer to these continuing activities, as other commentators do, as *Plan Frontera Sur*, or the Southern Border Plan (also known as *Programa Frontera Sur*).

2. Other externalisation instruments in the region at time of fieldwork include:

- the (now suspended) Central American Program, an Minors in-country refugee/parole processing scheme.
- policy and practice preventing families and minors from leaving Honduras since June 2014; for example, under-21s must have signed parental consent and a passport to leave the country, and US-assisted special units stop vehicles near border crossings between Honduras and Guatemala and demand papers from people with children.
- the US-funded media campaigns in Honduras, 'Danger Awareness' and 'Know the Facts'.

- the increasing securitisation of country borders, despite the previously open borders between CA-4 countries (Guatemala, Honduras, El Salvador and Nicaragua).

3. Presidential Memorandum – Response to the Influx of Unaccompanied Alien Children Across the Southwest Border, 2 June 2014. Washington DC: The White House.

4. Journalists have had numerous Freedom of Information (FOI) requests rejected, with officials claiming that they have no documents in their files that can answer their questions on *Plan Frontera Sur* (Mariscal and Truax 2015). Two representatives of non-governmental organisations in Mexico City, who I interviewed, said they had received official reports through FOI requests that contain no more than brief strategic guidelines and no substance about the programme itself.

5. For technical aspects of *Plan Frontera Sur*, see Hiemstra 2019: 48–9.

6. Previous policy that sought to "secure the assistance of Mexico and Central American countries to slow down the flow of illegal aliens into the United States" (Frelick 1991: 2) also manifested as checkpoints on the transit trajectory and high numbers of deportations of Central Americans.

7. Interview with representative of a non-governmental organisation, Washington DC, December 2015.

8. UN Articles on the Responsibility of States for Internationally Wrongful Acts, UN Doc. A/56/10 (2001).

9. HRC General Comment 36, *Article 6: The Right to Life*, para. 21.

10. International Court of Justice, *Case concerning the military and paramilitary activities in and against Nicaragua*; ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnian Genocide Case)*; and The International Criminal Tribunal for the former Yugoslavia (ICTY) *Prosecutor v Duško Tadić*.

11. International Law Commission (ILC), Draft Articles on the Responsibility of States for Internationally Wrongful Acts, UN Doc. A/56/10 (2001).

12. *Inter alia*, Mexico's *Ley sobre Refugiados, Protección Complementaria y Asilo Político* (2011, amended 2014) (Asylum Law), *Ley General de los Derechos de Niñas, Niños y Adolescentes* (2014) (Child Rights Law), and *Ley de Migración* (2011) (Migration Law).

13. The *Ley General de los Derechos de Niñas, Niños y Adolescentes* (Child Rights Law) dedicates its nineteenth section to migrants who are minors. Article 96 of this law prohibits the return, deportation, expulsion, refusal of entry or any form of removal or transferral of a child or adolescent when their life, security or liberty is at risk due to persecution or threat thereof, general violence, or gross human rights violations, including when they could be subject to torture or other cruel, inhuman or degrading treatment. Article 97 specifies that any decision to return a minor to their country of origin or to a third safe country must be based only on their best interests.

Article 98 requires certain federal agencies, including Mexico's Department for Families (DIF) together with competent institutions, to identify any foreign minors with international protection needs, whether as refugee or any other type, in order to provide them with the necessary appropriate and individualised attention through the adoption of special protection measures; this is to be by way of an initial evaluation with guarantees of security and privacy. Further to this, Article 98 also stipulates that if, during their initial evaluation, DIF identifies that minors could be eligible for recognition as a refugee or asylum, DIF must communicate this to INM in order to adopt measures for special protection.

14. Article 52.V.b. and Article 74 of the *Ley de Migración* (Migration Law) provide for a humanitarian visa for unaccompanied minors when it is in their best interest, during which time either temporary or permanent alternatives to assisted return must be provided. Although Article 74 states that the law's rules will establish the procedure that must be followed to determine the best interest, in practice INM are demanding authorisation from the parent or guardian of the unaccompanied minor in order to issue such documentation.

In late 2016, *Albergue* staff related to me that staff members in Ixtepec had become the legal guardians of the minors there while their paperwork was being processed; this was a lengthy and cumbersome process that required authorisation from parents and/or authorities in their country of origin. In Mexico City, after much advocacy work from *Albergue* staff, DIF agreed to act as the legal representative of all minors at the specialist migrant shelter for minors in Mexico City.

15. Interviews with two representatives of non-governmental organisations, Mexico City, September 2015.

16. Statistic bulletins from Mexico's Migration Policy Unit (*Unidad de Política Migratoria, Registro e Identidad de Personas*) http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos.

17. A verbal expression of fear to return made to *any* government official should trigger the referral process of *canalización* and should, as such, be treated as a verbal claim for asylum. Article 21 of the Asylum Law requires any authority that is aware of an intention to claim asylum to inform the Secretary (Minister of the Interior) in writing; failure to do so is punishable and incurs applicable sanctions relating to the responsibility of public servants.

At the time, UNHCR in Mexico had a training programme for relevant government officials and authorities. Their director told me that one of their key messages was that "in their interactions with non-Mexicans, they should be aware that the person can raise his or her hand and say, 'Don't send me back, I am afraid to go back', and that would be enough for them to refer the case to COMAR".

18. Interviews with two representatives of non-governmental organisations, Mexico City, September 2015, and the director of a humanitarian organisation, Mexico City, October 2015.

19. Interview with an academic researcher, Washington DC, December 2015.

20. Interview with an academic researcher, Washington DC, December 2015.

21. Such US financing and training of actors denoting effective control can be found in ICJ *Case concerning the military and paramilitary activities in and against Nicaragua*.

22. United Nations Human Rights Council, General Comment 36, para. 21.

23. HRC General Comment 31, para. 8. Also, the Inter-American Court of Human Rights (IACtHR) Case of *Velásquez Rodríguez*.

24. United Nations Human Rights Council, General Comment 36, para. 23.

25. IACtHR Case of *Mapiripán Massacre*.

26. Interview with an academic researcher, San Cristobal de las Casas, Mexico, September 2015.

27. Interview with an academic researcher, San Cristobal de las Casas, Mexico, September 2015.

28. Interview with an academic researcher, San Cristobal de las Casas, Mexico, September 2015.

29. Interview with an independent journalist, Mexico City, November 2015.

30. Interview with an academic researcher, Mexico City, October 2015.

31. Interviews with two academic researchers, Mexico City, October 2015, a coordinator of a migrant shelter, Ciudad Ixtepec, Oaxaca, October 2015, and an independent journalist, Mexico City, November 2015.

32. The International Law Commission Articles on State Responsibility codify state responsibility for internationally wrongful acts (without distinguishing between crimes and delicts), with Article 7 providing guidance on the attribution of responsibility to states for the unauthorised or *ultra vires* acts of state actors.

Conclusions and reflections

This book has examined three aspects of organised crime's involvement in migration and the displacement crisis in Mexico and Central America. It looked at how criminal groups and violence drive displacement, how this affects citizens and causes them to flee, and how organised criminal groups abuse and exploit migrants during transit but also facilitate migration journeys. It also analysed the role played by the state in this through corruption, impunity and the implementation of policy with foreseeable adverse consequences.

Chapters 1 and 2 took an agency-oriented perspective, examining the decision-making of people fleeing criminal violence to bring new understanding about how people exercise agency both at the point of initial mobility and during transit, exploring how they respond to risk and seek safety throughout their journey. Chapter 3 examined the abuse and exploitation of transit migrants by criminal groups, evaluating how policy, corruption and impunity affect these. Analysis of people-smuggling in Chapter 4 exposed the connections between policy development and people-smuggling operations. Chapter 5 evaluated the state's role in these outcomes, reflecting on what my analysis revealed about state accountability. Within this book, the analyses and arguments are developed and built on each other progressively, moving from the individual experience of displacement to the strategies of large criminal groups to the responsibilities of the state in all this. This chapter brings these threads together to draw some final conclusions.

The chapter is divided into four parts. The first part discusses the new understanding that my research brings to the ongoing situation in Mexico and Central America, the links between organised crime and migration, the dynamics of displacement and protection needs that result, and the role and responsibility of the state in all this. The second part reflects upon the usefulness of the morphogenetic approach as an analytic tool and the insight gained from using it in this study. The third part evaluates

the contribution that this book makes to broader academic scholarship and understanding, pulling together the threads of debate with which it engages. Finally, it offers some reflections on the findings' importance and relevance for the ongoing situation in the region and other global contexts today, and on potential future directions for research.

Contributions to knowledge and understanding about the empirical situation

Displacement and migration caused by organised crime in Northern Central America

The book advances understanding of displacement and migration driven by criminal violence and persecution in two principal ways. Firstly, it connects the internal and external dimensions of displacement, adding particular detail about the types of mobility and displacement dynamics provoked by different levels of risk linked to the three dimensions of criminal governance, why some people are compelled to flee their country, and their experience and choices when they decide to leave their home and during their journey. Secondly, it brings new insight into the agency and decision-making of people who have been forced to leave their homes and/or countries, throughout their migration journey. Analysis of atomised, seemingly unpredictable and ostensibly random movements in internal displacement caused by criminal gangs in Northern Central America reveals the rationale common to these decisions, deepening understanding about how decisions are made and how these shape the displacement dynamics, including its external dimension. It examines the speed at which decisions are made, the factors taken into consideration and the influence of determinants – such as social capital, the absence of state protection and access to information about rights – in determining people's choice of destination and whether or not they claim asylum. My unique contribution is to provide causal explanations that extend understanding of how and why this happens.

Analysing agency and decision-making in people's reasons for leaving and how this produces different types of mobility, and locating this in the context of mixed migration, adds depth to our understanding of the motivation of flows and the type of mobility produced at the initial flight and during transit. It also acknowledges that the economic reasons that may cause people to migrate are often deeply linked to pervasive criminal activity, which inhibits economic growth. Analysis in Chapters 1 and 5 builds on understanding about cycles of deportation and circular

migration between Northern Central America and the USA and Canada in the context of criminal violence (Burt et al. 2016, Kwan et al. 2017), bringing new understanding about how people make the decision to migrate following deportation and the speed in which repeat migration takes place. All decisions were analysed equally and without distinction, showing the decisions to migrate again as part of this broader migration journey. Chapter 5 explains how respondents with potential international protection needs who had been previously deported to their country of origin from Mexico immediately migrated again. These people reported leaving as soon as they arrived back in their country of origin, because the threat remained the same. This shows how the decision for repeat mobility can be as quick and flight as acute as at the point of initial mobility (as described by Kunz, 1973, 1981). In other words, 'emergency flight' repeats itself because the factors that drove initial flight remain.

This book adds to the scholarship on asylum claims and international protection on grounds related to organised crime and criminal violence in the USA (Corsetti 2006, Pong 2014, Carlson and Gallagher 2015, McNamara 2017) and the regional and international systems (Cantor 2016b, Serna 2016, Medrano 2017) by generating new knowledge about how people decide whether to apply for international protection when they learn of this right during transit. It locates this decision about whether to apply for asylum in the context of mixed migration and in the social and historical context of migration in the region, revealing some of the nuance about these decisions, the factors that people consider in them, and how these may determine people's destination or sway the decision to apply for asylum in Mexico. Access to rights information and civil-society support is of critical importance for those who have fled criminal violence and have potential international protection needs. Nonetheless, the actual process of applying for asylum was itself a deterrent for some people because they were unable to apply concurrently for the humanitarian visa, which would permit them to work and live more freely in Mexico, while their asylum application was being processed.

Abuse during transit in Mexico

While an environment of impunity was known to have aggravated the widespread and systematic abuse of migrants in Mexico (Jácome 2008, Velasco 2009, Ángeles Cruz 2010, Casillas 2011, Dudley 2012), looking more squarely at the causal roles of impunity and the state in enabling this abuse advances understanding in two core ways. First, this reveals the causal mechanisms that led to criminal abuse becoming a structural factor during transit. In doing so, it demonstrates the foreseeable nature

of the adverse consequences of policy delivered in an environment of endemic impunity, criminality and corruption, establishing that subsequent abuse was 'collateral damage' arising from the policy. Second, it challenges notions of state responsibility for the consequences of this impunity and for the criminal acts that were perpetrated because of it. Given that impunity was a causal mechanism of persistent, widespread and systematic abuse, there is some degree of direct state responsibility for subsequent abuse, which goes beyond states' due diligence obligations to take reasonable measures to prevent and punish. This provides a clearer understanding of the role of the Mexican state in sustaining abuse against migrants in transit and allows us to consider these findings within broader debates on the foreseeable adverse consequences of policy and on state accountability.

People-smuggling through Mexico

Analysis of people-smuggling from a structure–agency perspective offers new understanding of the symbiotic relationship between agency and people-smuggling (Baird 2013, Sanchez 2015) and of the impact of migration control on people-smuggling (Andreas 2001, 2011, Sanchez 2015, Kyle and Dale 2011). It further demonstrates the transforming properties of people-smuggling networks and migrant agency in precipitating the implementation of *Plan Frontera Sur*, and their subsequent emergent properties in response to its implementation. In particular, it sheds new light on the role of corruption in people-smuggling and the impact of people-smuggling on the state. It builds on previous commentary that focused on the impact of people-smuggling on the destination state (for example, Koslowski 2011) and progresses beyond previous conceptualisations of this as solely a violation of the state's sovereign right to control its borders, by showing how it inherently subverts the state through corruption. Chapters 4 and 5 generate new understanding about how *Plan Frontera Sur* led to increased corruption related to people-smuggling and show how this weakens state integrity in the transit country, adding a new dimension to the "multiple ways in which States make smuggling and smuggling (re)makes States" (Kyle and Koslowski 2011: 16–17).

Policy and state responsibility

The externalisation of a blunt deterrent policy in the context of mixed migration resulted in a significant gap between protection on paper and in practice in Mexico. The implementation of in-country migration controls in Mexico under the auspices of *Plan Frontera Sur* seriously affected

people's access to protection. As shown in Chapters 2 and 5, people with international protection needs could be deterred from making applications or be deported without due process, thus their right to apply for asylum was not being guaranteed. As found in contemporaneous human rights reports, as a result of implementing this policy, Mexico appeared to be violating its international obligation to uphold the principle of non-refoulement and failing to comply with its own domestic laws.

Analysis of agency and decision-making generated two interesting insights about this policy and its effectiveness and appropriateness. Firstly, we were able to see why *Plan Frontera Sur* was ineffective as a deterrent in a situation of mixed flows. Although the agency of those who were forced to displace because of criminal violence is constrained by structural factors in countries of origin, this agency is potent and must be exercised because of the level of risk, regardless of structural factors such as restrictive migration controls. Secondly, we saw that it is at this intersection of migrant agency and deterrent policy where human rights violations are particularly acute. Those who exercise agency and flee by irregular routes experience human rights violations connected with three aspects of the policy's implementation. Violations occur in the delivery of the policy, such as deportations that do not comply with international obligations. Violations arise in the execution of the policy, such as harm during apprehensions or detention. Violations result as 'collateral damage' from the adverse consequences of policy, such as increased criminal attacks, which were shown to be foreseeable, given the context of pervasive criminality and systemic corruption and impunity. This raised pertinent questions about state accountability for these and for the acts of non-state actors – organised criminal groups – and the corruption and impunity that sustain them.

Morphogenetic approach: a tool for analysis and synthesis

The application of the morphogenetic approach as a tool to analyse a complex situation of migration is a novel contribution, and some reflection on its usefulness is merited. This is the first time morphogenetic analysis has been applied in an extensive study on migration, and the findings it generated, while not exhaustive, demonstrate how it can be applied to complex situations of human mobility, organised crime and policy implementation. Moreover, this opens up opportunities for more exhaustive or deeply structured application in future studies. This critical realist analytic framework allowed the concurrent examination of complex and

constantly evolving situations from multiple perspectives, accommodating the multifarious nature of migration and organised crime. It enabled us to produce detailed analysis of micro- and macro-level changes and to simultaneously see the bigger picture – or to see this same detail from another perspective. This enabled examination of how both structure and agency respond to time-specific events in the presence of certain contextual factors, offering the ability to simultaneously analyse change from these separate yet interacting perspectives without conflating them.

For instance, analysis of people-smuggling in Chapter 4 deepens understanding by capturing perspectives of both structure and agency within cycles of structural elaboration and system feedback. Thus, we can connect micro-level decision-making and individual agency with policy implementation, policy implementation with the evolution of people-smuggling, and the evolution of people-smuggling with increased corruption. This explained how people-smuggling networks and migrant agency contributed to the situation that triggered the implementation of *Plan Frontera Sur*, and how they both responded to its implementation. This deepens understanding of the role of agency in system feedback and the cyclical nature of change.

My analysis also uncovered hidden direct and indirect causal mechanisms of change, many located in the endemic impunity and systemic corruption in Mexico. It also showed how implementing policy in such an environment increased the involvement of organised crime in people-smuggling, which in turn led to the systematic abuse of migrants by these groups. Having identified the direct and indirect causal properties of these contextual factors, the framework can be used to deduce that removing a factor – for example, impunity – could lead to a different outcome. This could help identify policy approaches that may be more effective and less likely to have adverse consequences. Likewise, a different outcome would be achieved if the need to flee one's country were removed from the equation by addressing the structural factors that cause displacement – in this case, state ineffectiveness and lack of protection in the country of origin.

This analytic approach allowed for agency to be considered, and for its transformative and emergent properties to be included in our understanding of policy. As seen in Chapter 4, migrant agency (indicated by arrivals at the US border) was instrumental in the development of *Plan Frontera Sur* but also continued after its implementation. When taken together with the findings about agency and decision-making in Chapters 1 and 2, this analysis shows how deterrent policy responses are ineffective in this situation – precisely because of the migrant agency that they are supposed to stop. Nonetheless, as shown in Chapters 3 and 5, given

this agency was exercised within a context that aggravated migrants' vulnerability, the risk from criminal actors during transit increased after the policy was implemented. Again, such findings could be used to inform policy approaches that are more appropriate and effective than *Plan Frontera Sur*.

As a framework where the process of change and the objective outcomes of policy can be evaluated, the morphogenetic approach allows a multidimensional view of policy as a direct or indirect causal mechanism, enabling us to trace cause and effect beyond the superficial or those claimed by official discourse. This then enables us to move beyond debates about the 'unintended' consequences of migration controls to more objective framing of negative policy outcomes as 'adverse consequences'. Morphogenetic analysis also allows us to reveal the foreseeable nature of such consequences, by situating them within the specific context and by aligning them with the known outcomes of previous policies. Thus, we can produce robust hypotheses suggesting that certain policy outcomes were likely foreseeable and that the policy was implemented with awareness of this, nonetheless. This has important implications for evaluating state accountability for the 'collateral damage' resulting from migration policy and externalised migration controls. By analysing the outcomes of policy implemented within specific contextual factors, we can reveal the exact causal mechanisms – both direct and indirect – of that policy's adverse consequences. We can use these findings to better understand what the potential outcomes of future policy might be, given the presence of those same contextual factors. For instance, we could anticipate that people-smuggling and related corruption would likely rise if increased migration controls were introduced in an environment of systemic corruption, where there are pre-existing people-smuggling networks and a continuing need for people to migrate.

The morphogenetic approach goes some way towards allowing us to address some of the contemporary dilemmas concerning migration theory, enabling hybrid approaches that can draw on theoretical approaches with both agency and structure foci (Brettell and Hollifield 2000, Massey et al. 2008, Castles et al. 2014, Dimitriadi 2016). In this way, it goes beyond accommodating (rather than resolving) some of the tensions between approaches of agency and structure (Bakewell 2010, Iosifides 2011), by also offering a mode of synthesis that allows the use of and the bringing together of multiple debates or theories. This approach also enables this book to take three discrete lines of study and synthesise them, as well as building on them individually. This holds promise for future multidisciplinary research and for responding to contemporary calls for plural, interdisciplinary and synthesised approaches to migration

studies in order to "develop an understanding of migration as a dynamic process which is in constant interaction with broader change processes in destination and origin societies" (Castles et al. 2014: 27).

Contribution to broader academic debates

This section brings together the strands of arguments that have developed and built on each other through the book, showing how its findings intervene in and contribute to these wider debates, namely: agency and decision-making in forced migration; policy and adverse outcomes; and state accountability.

Agency, decision-making and displacement dynamics in forced migration

This book builds on current understanding of migrant agency during forced migration, as well as bringing together previously distinct theories about initial mobility and the transit portions of migration. It promotes the critical role of human agency of those who are compelled to leave their country of origin and who must operate within the specific structural constraints. Richmond's (1988, 1993) continuum between 'proactive' and 'reactive' mobility conceives forced movement as "only an extreme case of the constraints that are placed upon the choices available to an individual in particular circumstances . . . Flight is one of these options" (Richmond 1988: 14). Indeed, agency is exercised by people at all points on this proactive–reactive continuum, and "*most* migrants make their decision to migrate in response to a complex set of external constraints and predisposing events [. . . that] vary in their salience, significance and impact, but there are elements of both compulsion and choice" (Turton 2003: 8–9). The study also shows how the agency of people at the reactive (or forced) end of the continuum is potent and not stopped by structural elements such as migration controls. This is demonstrated by the failure of *Plan Frontera Sur* and other externalisation tools to prevent people leaving Northern Central America and travelling north.

Although Richmond (1988) questioned whether the acknowledgement of structural constraints can be accommodated in a theory that focuses on agency or voluntariness, the morphogenetic approach and its critical realist analysis successfully balance these elements, while keeping agency central to the analysis at key points. Taking an approach that examines contextual factors in relation to that agency, it furthers understanding of how agency operates under varying levels of constraint or enablement,

showing how people exercise agency within a continuum of choice (Van Hear 1998). Analysis of initial mobility and the decision to migrate externally rather than internally in Chapter 1 builds on this, adding nuance to the decision-making process by capturing the contextual factors that restrict options, influence choice and define the displacement trajectory. This adds to understanding of people's 'active decision-making' in forced migration, such as "how they reach the decision to leave; what information is available to them when they make the decision; the way in which their journey is financed, the degree to which it is planned with a specific destination in mind" (Turton 2003: 14). It also demonstrates there is more nuance to the time-sensitive nature of decision-making than Kunz's (1973, 1981) kinetic model appears to accommodate. This is indicated by people's decisions for initial mobility under different levels of risk, which I describe as emergency, evasive or pre-emptive flight, rather than Kunz's dichotomous acute–anticipatory flight. Thus, the immediate exercise of agency at the reactive (or forced) end of the continuum also reflects the potency of such agency.

By placing decision-making at the centre of analysis at specific points, we can accommodate mixed flows of people on Richmond's (1988, 1993) continuum equally and without distinction. My analysis examines with equal weight people's decisions at initial mobility and during the transit portion of migration, the decisions of people with varying degrees of compulsion in their reasons for mobility, and the contextual factors that affect people's trajectory, whatever their reasons for mobility. Evaluating all decisions within the same framework of analysis enabled this book to successfully tackle some of the difficulties in addressing situations of mixed migration (Van Hear et al. 2009, Schuster 2016). For instance, this allowed additional focus on access to international protection while simultaneously understanding decision-making within the broader historical and cultural context of migration in the region, where social capital may determine planned destinations. Inasmuch, it resolves some of the issues around how to address mixed flows, especially when these flows may look like voluntary movements when examined from a structural perspective (Bakewell 2010).

The agency and decision-making of forced migrants are of interest not only because these drive migratory processes, but they are critical to the synthesis of theory. This allows us to move away from a dichotomous "focus on public policy and private needs – that is, on policy issues on the one hand and on the needs – physical and psychological – of forced migrants on the other" (Turton 2003: 14) towards a hybrid approach where these structure and agency elements can be understood together. Richmond's model, for example, "recognises the interaction

between motivational factors, on the one hand, and the social structural determinants, on the other", but also highlights "the complex interaction between political, economic, environmental, social and bio-psychological factors in determining the propensity to migrate" (Richmond 1993: 21–2). Morphogenetic analysis revealed this type of contextual detail, bringing new understanding about the decision-making of people fleeing criminal violence. It also revealed the critical role that agency has in structural elaborations and system feedback.

Policy gaps and adverse consequences

There are significant policy gaps in *Plan Frontera Sur* that reflect those typically defined by commentators (Castles 2004, 2010, Cornelius et al. 2004, Massey et al. 2008, Czaika and De Haas 2013, 2016, Schmoll 2016). Although any 'implementation gap' is difficult to ascertain given the lack of transparency and documentation surrounding the policy, the 'discourse gap' or 'discursive gap' was indicated by talk of improving security and guaranteeing human rights when the empirical facts demonstrate increased insecurity and violations of human rights. The 'efficacy gap' was marked by continued arrivals at the US border despite the high number of deportations from Mexico, which was shown to be due to people-smuggling and migrant agency. Chapter 4 exposed the structural elaboration of people-smuggling operations following the implementation of *Plan Frontera Sur*, as well as the secondary impact that this has had on corruption related to this in Mexico. Analysis revealed the contextual factors (for example, impunity, corruption, established presence of organised crime groups) and elements of structure and agency that result in adverse outcomes of policy. Thus, it explains the underlying causes of these gaps and the adverse consequences of policy, extending this debate by giving more texture to the nature of these gaps and why adverse outcomes may happen.

Although some commentators argue that agency should be considered in the evaluation of why policies fail (Castles 2004, 2010), there appears to be little analysis of this in practice. While dealing with a mixed flow in transit, this book has given considerable attention to the agency of people who have been forced to leave their country. Migrant agency is exercised despite the policy aimed at curbing it and despite other structural constraints unconnected to this policy, such as the threat from organised crime during transit. Restrictive migration controls are an attempt to halt agency and deter migration. Their failure – or the efficacy gap – is defined to a large extent by the continued exercise of agency despite them, indicated by the continuation of migratory flows. This is particularly pertinent

in the context of forced migration, where, although migrant agency may be constrained by circumstance, it is potent and cannot be stopped by deterrent policies.

Moving away from the notion of 'unintended consequences' of migration controls (Cornelius 2001, 2004, Cornelius et al. 2004, Massey et al. 2008), my analysis positions adverse consequences objectively, detaching the empirical facts from subjective conjecture about intent. This enables a neutral view that is better suited to the human rights lens. This is because it is the fact that a human rights violation occurred within a state's jurisdiction that invokes state liability under international human rights law, rather than any potential intent. While these commentators' arguments are still valid, they have been further developed by Grant (2011a) and Weber and Pickering (2011), who frame such negative policy outcomes more neutrally as 'adverse consequences' and touch upon the foreseeable nature of some consequences of border control policies, such as increased border deaths.

It is these latter debates that this book extends in four ways. Firstly, it builds on analysis that primarily concerns indirect violence, by looking squarely at direct violence linked to organised criminal groups. Secondly, it looks more broadly at policy and the context within which it is implemented, additionally evaluating the effect of non-migratory policy and state action and inaction – both individually and together – on the situation during transit. This reveals their direct and indirect causal properties and enables clearer lines of accountability to be traced. Thirdly, it adds depth by identifying secondary adverse consequences, such as the increase in corruption related to people-smuggling and its impact on state integrity. Fourthly, it shows how the morphogenetic framework can be used to determine the likely foreseeable nature of adverse consequences, both retrospectively and in future iterations of policy.

State accountability

These findings have implications for our understanding of state responsibility in three areas. The first of these areas is state accountability for the adverse consequences of migration controls and policy, in particular when these are foreseeable. By identifying the indirect causal mechanisms behind policy outcomes, analysis revealed aspects of state action and inaction that extend our understanding of state accountability within this context. For instance, in Chapter 3 we saw how the tolerance of indirect violence together with impunity had an indirect causal role in the development of organised crime as a structural factor during transit. When we read the findings about indirect and direct causal

mechanisms together with Jácome's (2008) conceptualisation of structural violence against transit migrants, we can clearly see the state's role in this development. This advances debates about state accountability for policy-produced deaths and indirect violence (Koser 2005, Spijkerboer 2007, Grant 2011, Weber and Pickering 2011, Slack and Whiteford 2013, Michalowski and Hardy 2014) by drawing similar lines of accountability for direct violence perpetrated by criminal actors (Guercke 2021).

The concept of foreseeable adverse consequences enables new perspectives on state accountability. Because of the foreseeable nature of adverse outcomes, their impact can be conceptualised as 'collateral damage'. This is particularly relevant in the context of states implementing policy while aware of the likely 'collateral damage' – an act that some commentators argue is a 'state crime' because it sanctions human rights violations (Weber and Pickering 2011, Michalowski and Hardy 2014). As demonstrated in Chapters 3 and 4, policies have affected organised crime's involvement in the systematic abuse of transit migrants and have also increased people-smuggling and corruption related to this. Analysis revealed the causal role of impunity and corruption in this, enabling us to draw clear lines of accountability for the outcome and to demonstrate its foreseeability. Notwithstanding this, the foreseeable nature of adverse consequences of policy (or, indeed, their 'unintended' nature) is less applicable when the policy process is so obscure and lacking in transparency, as Chapter 5 showed *Plan Frontera Sur* to be. This obscurity of policy process is beneficial to states as it buffers them against arguments that they may have been aware of such consequences.

The second of these areas is the notion of state responsibility for the externalisation of migration controls. Although there has been some good analysis of some specific policies and their human rights impact (Podkul and Kysel 2015, Frelick et al. 2016, Danze 2023), there is less consideration of these in relation to state responsibility in the context of externalised controls, or beyond the rights of refugees and indirect violence. Chapter 5 extends this by detailing three types of adverse outcomes resulting from the implementation of *Plan Frontera Sur*: human rights violations perpetrated in order to deliver the policy – namely, deportations that may not comply with the principle of non-refoulement; human rights violations perpetrated in the execution of policy – such as violations by state actors during apprehension and detention; and adverse consequences of the policy – such as the increases in criminal attacks and in people-smuggling and related corruption.

The third of these areas is responsibility for the acts of organised crime groups. An emerging line of debate (for instance, Gallagher 2010, Hauck and Peterke 2010, 2016, Gallagher and David 2014, Guercke 2021) relies

on interpretations of the state responsibility for non-state actors to draw parallels between responsibility for the acts of armed groups and for the acts of organised criminal groups. However, there are some features of organised crime that the interpretations fail to address in a meaningful way – notably, criminal groups' lack of explicit political objectives (beyond to maintain criminal governance), the meaning of territorial control as a criminal strategy, and state complicity – a core dimension of criminal governance (Lessing 2015, 2017, Moncada 2016, 2021, Barnes 2017, Arias 2017, Durán-Martínez 2018, Trejo and Ley 2020, Magaloni et al. 2020, Feldmann and Luna 2022). This complicity manifests as impunity and corruption, each of which implies a greater degree of state accountability (Gallagher 2010, Gallagher and David 2014, Guercke 2021).

This book makes a particular contribution to understanding state responsibility for impunity and corruption, by revealing their causal role in enabling abuse of migrants in transit, as well as the foreseeability of adverse consequences when policy is implemented in an environment of endemic criminality, impunity and systemic corruption. Chapter 3 showed how state tolerance of indirect violence, together with impunity, played a role in the development of organised crime as a structural factor during transit. This impunity was, in itself, a violation of state obligations under the principle of due diligence. However, impunity for direct violence and abuse against migrants then acted as a causal mechanism in subsequent elaborations, such as in the development of the abuse's widespread and systematic nature. There is a strong argument that a greater degree of state responsibility should be attributed to subsequent criminal acts that were catalysed by this impunity (see Guercke 2021).

The role of corruption in facilitating people-smuggling was detailed in Chapters 4 and 5. We saw how increased migration controls led to increased people-smuggling, which facilitated the unauthorised entry of people in contravention of the state's sovereign right to control its borders. This also amplified corruption to facilitate the passage of people-smugglers, thus producing an adverse impact on state integrity, by further entrenching corruption. Regardless of whether state complicity is condoned or authorised, the state has responsibility for the *ultra vires* or unauthorised acts of state agents and for the state crime of corruption (Gallagher 2010, Gallagher and David 2014). The state also has obligations under due diligence to prevent, investigate and punish corruption (Gallagher 2010, Gallagher and David 2014, Guercke 2021), although it violates this with further impunity, informally codified in its *pax narcotica* and the complex interactions between the state and criminal entities (Arias 2017, Moncada 2016, 2021, Durán-Martínez 2018, Lessing 2020, Magaloni et al. 2020, Trejo and Ley 2020, Feldmann and Luna 2022).

There are also points where these three areas of state responsibility intersect. For instance, the implementation of policy in an environment of endemic impunity and systemic corruption links areas concerning foreseeable adverse consequences together with areas concerning responsibility for the acts of organised crime. This is because impunity and corruption are causal mechanisms in these adverse outcomes. Another intersection is found when externalised migration controls may have foreseeable adverse outcomes for human rights but are implemented nonetheless and are externalised to the transit state by the destination state. A further complex situation arises where the externalisation of migration controls then has adverse consequences on organised crime activity and state integrity in the country where they are implemented (here, in Mexico). This is further complicated by the complicity of state agents, and by its likely foreseeable nature. Perhaps it is at these intersections that additional complexity is presented, and future lines of inquiry are opened.

Synthesising these debates

Synthesis of these different lines of debate is made possible in large part by the morphogenetic approach and the equal weight it gives to all elements in the analysis. This demonstrates how a structure–agency approach can enable the synthesis of debates and approaches. For instance, the book brings together and extends previously distinct lines of debate concerning the agency and decision-making of people within the context of forced and mixed migration (Kunz 1973, 1981, Richmond 1988, 1993, Van Hear 1998, Castles 2003, Turton 2003, Van Hear et al. 2009) with those concerning policy gaps (Cornelius 2001, 2004, Cornelius et al. 2004, Czaika and De Haas 2013, 2016, Schmoll 2016) and the adverse consequences of policy (Koser 2005, Spijkerboer 2007, Grant 2011, 2016, Weber and Pickering 2011, Slack and Whiteford 2013, Michalowski and Hardy 2014). This enables us to see what happens at the intersection between the agency of forced migrants and deterrent migration policies. This then allows us to simultaneously see, on one hand, how continued agency contributes to the 'efficacy gap' of policy and, on the other hand, how the adverse consequences of policy serve to punish those who exercise agency, and that this 'collateral damage' is foreseeable and even anticipated. We can then better understand the implications for policy development and implementation and for notions of state responsibility.

This book demonstrates that the role of the state is critical to our understanding of these three links between organised crime and migration. Ultimately, failure to address state complicity with organised crime

is perhaps the biggest challenge to migration control in Mexico, and the human rights situation for transit migrants and people who have fled their countries will not improve until this is resolved. Parallel to this, forced migration caused by criminal violence in Northern Central America cannot be addressed with deterrent policies and externalised migration controls, but can only be resolved by guaranteeing access to appropriate protection mechanisms in countries of origin and destination and by adopting suitable policy measures to resolve the situation of organised crime and violence and the root causes of these.

Final reflections

This book generates significant new understanding of the situation in the region and makes novel contributions to wider academic debates. While the situations in Mexico and Northern Central America have continued to flux and evolve, my findings have ongoing relevance for the situation in the region as well as other global contexts. This section reflects on how they relate to the evolving situation since research was conducted and to emerging situations and contemporary issues globally. It also highlights some salient questions that fall outside the book's scope and would be suitable for further investigation.

The evolving situation in Mexico and Central America

My research findings and analysis contribute to the growing body of knowledge about displacement dynamics in Mexico and Central America. They help us understand how organised criminal groups cause displacement more broadly, as well as highlighting the involvement of organised crime in the facilitation of migrant journeys and the abuse of those in transit. These contribute to understanding about how decision-making shapes displacement dynamics in the context of human mobility driven by organised crime and violence outside of conflict and to developing responses to this. My findings underscore the ineffectiveness of internal displacement as a protection strategy as well as states' roles in fomenting and facilitating criminal violence through ineffective state presence, impunity and corruption. Given the considerable rise in asylum claims in Mexico and elsewhere in the last decade, these findings are particularly important in supporting arguments for international protection and asylum claims by demonstrating the lack of internal relocation options, the insufficiency of state protection and the complicity of the state apparatus in such violence.

The findings are also pertinent for understanding how effective responses to gang violence and presence might be developed in Northern Central America and elsewhere. In El Salvador and Honduras, repressive responses have included security-led responses that resulted in state violence and extrajudicial executions and caused displacement. The states of emergency that followed appear to have become semi-permanent, violate fundamental human rights and fail to address the root causes of violence and organised criminality. While the crackdown on gangs in El Salvador since April 2022 appears to have reaped notable success in terms of improved citizen security, this has been at great cost to human rights (Medrano 2023). Emergency measures in Honduras since late 2022 have yet to yield any genuine and long-lasting achievements, with recent investigations discerning no effect on gang activity and violence, instead noting an increase in extortion and new criminal presence and violence in rural areas, as gangs flee crackdowns in cities (Pellegrini and Pappalardo 2023). Nonetheless, the findings of my research show how we must question the longer-term success and sustainability of policy responses that fail to promote non-violent conflict resolution or address the root causes – not just poverty, inequality and social exclusion, but also entrenched corruption and impunity. This links directly to the criminal governance framing of organised crime groups within post-authoritarian spaces and emerged democracies where the state apparatus has not been addressed to remove aspects of the state that foment or facilitate the presence and operationality of organised crime (Trejo and Ley 2020, Feldmann and Luna 2022).

Analysis in the morphogenetic framework can help explain the impact of policies implemented during the first Trump administration (2017–21). These include changes in people-smuggling in Mexico, which came to be dominated by large organised crime groups (including the Gulf Cartel, Northeast Cartel, Sinaloa Cartel and *Cártel Jalisco Nueva Generación*) between 2016 and the start of 2025. Dudley et al. (2023) analyse the "unintended consequences" of US externalisation or deterrence policies put in place under the first Trump administration – notably the Migrant Protection Protocols (MPP, known as 'Remain in Mexico')[1] and Title 42 (also known as 'Return to Mexico'[2]) – in fomenting organised criminal groups' involvement with migration in the region and increasing corruption. As a result of such policies, large organised crime groups 'industrialised' people-smuggling and the cost of smuggling journeys 'exploded', as did the profits to be made. In this context, the journey through Mexico "metastasized into a gauntlet controlled by vast networks of smugglers, intermediaries, corrupt government officials, and transnational criminal organizations" (Dudley et al. 2023: 10). This should be understood

as another elaboration in the developments set out in Chapter 4 and, as such, anticipated. Furthermore, these consequences should be framed as 'adverse consequences' rather than 'unintended', given their foreseeability and the apparent acceptance of violence and abuse as an informal way of controlling immigration (see Chapter 3). These same policies – 'Remain in Mexico' and Title 42 – also resulted in the increased abuse and exploitation of those forced to remain in Mexican border areas and makeshift camps, further consolidating migrants as a source income for large organised crime groups as well as corrupt state actors (Slack 2019, Hiemstra 2019, Vogt 2020, Dudley et al. 2023).[3] Further, my framework for analysis demonstrates how such adverse consequences of these policies, rather than being mere unintended consequences, would have been foreseeable given the context in which they were delivered – just as those of future policies would be.

A counter to this industrialisation of people-smuggling and the associated increases in costs following *Plan Frontera Sur* was the emergence of 'migrant caravans', with vast groups of Central Americans walking together through Mexico in 2018 and 2019 as a collective protection strategy (Frank-Vitale 2023). This can be understood as the exercise of agency in response to the constraints imposed by these increased costs and the risk on the journeys. Frank-Vitale describes how people-smuggling and the migrant caravans are "parallel strategies that migrants employ to navigate the shifting terrain of immigration enforcement, exploitation, corruption, and organized crime in the space of transit" (Frank-Vitale 2023: 64). In a similar vein, others have examined how Central American migrants and refugees exercised agency within the constraints of the new administrative hurdles presented to them under *Plan Frontera Sur*, which were then hardened under subsequent US-driven policy, such as Title 42 and the Migrant Protection Protocols (Danze 2023, Torres et al. 2022).

At the start of the second Trump administration in January 2025, policy shocks occurred, affecting the US–Mexico border, the USA and Mexico. The administration reinstated the 'Remain in Mexico' policy, shut down the app used to book asylum appointments (CBP One) and issued an executive order to suspend asylum claims at the southern border. The administration designated several Latin American organised crime groups – many in Mexico – as terrorist organisations and threatened to intervene with force.[4] As a result of these policies, people-smuggling all but stopped overnight (Dittmar 2025). While there remains a certain lack of clarity about what people-smuggling was happening in the year after the policy changes were implemented – 2025 – initial reports attest to large organised crime gangs remaining as some of the sole players in a more exclusive industry that now only caters discreetly to high-end

clients (Dittmar 2025). There were also changes in various groups' activities in Mexico following this, with some groups that had been involved in people-smuggling turning to the exploitation and abuse of migrants without regular status, made more vulnerable by new barriers to regularisation in Mexico (Asmann 2025). In northeast Mexico, local groups who were involved in people-smuggling have reportedly turned to extortion, kidnapping and violence perpetrated against local residents and Mexican citizens as well as migrants (Dittmar 2025). While the morphogenetic approach cannot predict policy shocks, it can – together with the broader findings of this study – assist in understanding the adverse consequences of these, the way in which criminal groups might evolve and adapt in response, and the multifaceted vulnerability of migrants who remain in limbo in Mexico without recourse to regularisation or state protection.

Global relevance

The analysis in this book not only advances understanding of the ongoing situation and evolving dynamics in the region but has potential for application to a range of global situations. The findings have broader relevance, given the increasing use of externalisation instruments on a global level, particularly in situations of mixed migration flows. They are particularly pertinent for understanding the potential impact and adverse consequences of externalisation tools and policy, and the implications of developing and implementing policy in contexts that are affected by corruption and/or organised criminality, including groups that are only involved in people-smuggling. This also raises salient questions about state accountability for the adverse impact of policy (including but not limited to externalisation tools) and for the acts of non-state actors – namely organised crime in a context of corruption and impunity.

The region-specific findings also have relevance for situations in other countries where organised crime has emerged as a driver of displacement. Displacement and forced migration caused by criminal violence and persecution are emerging concerns in several regions around the world, and new situations can arise rapidly – such as happened in Ecuador and in the context of the breakdown of state authority in Haiti – or intersect with other displacement drivers, such as the exploitation of natural resources. The book's findings can assist in understanding the dynamics of movement that might be provoked and the protection needs that might arise, so as to develop responses to both violence and displacement, as well as prevention strategies that tackle the root causes in a meaningful, effective and sustainable way.

The book's global relevance is perhaps most explicit in the analysis of people-smuggling and the associated corruption in Chapters 4 and 5, where we saw how territory is opened with increased payments to corrupt state agents, usurping the sovereign right to control borders and weakening state integrity. In this scenario, organised crime becomes a more effective controller of territory and a more powerful geopolitical force than states in terms of enforcing migration control. This has relevance beyond the book's regional focus because of the transnational nature of people-smuggling networks and the similar networks and patterns of movement in other regions, which provoke dilemmas in various governments about how to confront people-smuggling.

Notwithstanding the specific factors that make the situation in Mexico unique – its geographical location, the long-established and trusted business of people-smuggling, and the territorial control of organised crime groups – comparative regional analysis is valuable because similar networks and patterns of movement appear to have emerged in various regions over the past decade or so. While there may be diverse operating models in different regions – from loose networks of individuals to organised criminal groups – these share some operational commonalities in terms of hierarchical structures, the increasingly transcontinental links of people-smuggling groups, the increasing involvement of organised crime in operations and the ability to rapidly evolve in response to state actions and controls (Aziz et al. 2015, Young and Abbott 2015, Holman 2016, Yildiz 2021, Brooks 2023, Mayblin et al. 2024, GIATOC 2024). Engaging with analysis of the situation and dynamics in another region could allow for some understanding of the nature of such groups, their interactions with each other and their ability to respond agilely to emerging 'market landscapes' – be these political changes (such as new policy implementation or policy shocks), new or expanding criminal actors, or displacement trends and vulnerabilities.

Further, the morphogenetic approach developed and applied here provides an appropriate and timely framework for analysis to provide insight into how people-smuggling in other regions may develop and respond to changing criminal landscapes, emerging displacement crises, and the delivery of new policy or externalised migration controls. States in the Global North are becoming increasingly concerned about people-smuggling and irregular migration, resulting in attempts to deter this through the criminalisation of migration and asylum-seekers and a range of externalisation tools and bilateral agreements. This is currently the case in the United Kingdom, where there are ongoing concerns around people-smuggling from France via the English Channel in 'small boats'. A handful of studies have explained the current actors, networks

and dynamics involved, including the significant role of transnational people-smuggling networks based in the Kurdistan region of Iraq (Saleem and Al-Shakeri 2024) and some of the profiles of people travelling by this route. Emerging work has highlighted the ineffectiveness of previous government policy to address this, as well as the adverse impact that unrelated policy had on the use of this route in the post-Brexit context (Morris and Qureshi 2022, Brooks 2023, Mayblin et al. 2024). The morphogenetic approach could provide future studies and government analysts with a critical framework to assess the dangers of implementing policy in a context where criminal gangs and people-smuggling networks exist, and identify the potential adverse consequences or efficacy gaps that could arise, given this context. Another context where this framework for analysis might be applied is in the analysis of externalisation tools that are implemented in states affected by corruption (such as bilateral agreements with Libya), as countries increasingly seek to outsource their responsibilities through third-country agreements.

Future research directions

A few areas for potential future research emerge from the findings and analysis in this book. Since the mid-2010s, asylum claims by Central Americans in Mexico have risen considerably, although the details of these remain largely unresearched. Investigation into how asylum claims are being processed and the reasoning and outcomes in these asylum decisions would benefit understanding of how protection is being secured and of how Mexico's Asylum Law is being delivered in practice. This legal and processing perspective would complement the analysis of decision-making and practical barriers to claiming asylum provided in Chapter 2. Research could also investigate the longer-term outcomes for those who are granted international protection in Mexico, particularly for certain vulnerable groups, where the same type of risk and persecution that drove them from Northern Central America could continue in Mexico. For instance, unaccompanied minors and young people could be targeted for recruitment by criminal actors, and LGBT+ persons could continue to be vulnerable to persecution or discrimination on grounds of gender identity or sexual orientation. Further investigation could examine the potential for the integration of former internally displaced persons (IDPs) or failed asylum-seekers who are returned to their country of origin from Mexico or other countries.

There are also opportunities for future research and analysis at an international level. The externalisation of migration controls is increasingly being used as a strategy around the world, and this book has explored

a novel strand within that: how the emergent and transformative properties of individual agency can affect policy and its efficacy. This is of interest to a potential line of investigation that further considers agency in the evaluation of policy outcomes and efficacy. As this book shows, it is at the intersection of migrant agency and deterrent policy where human rights violations are particularly acute. This line of inquiry could also investigate to what extent some externalisation instruments and deterrent policies have inbuilt punishment of agency, either through planned outcomes or 'collateral damage', connecting this with debates on foreseeable adverse consequences and state accountability for adverse outcomes and for the acts of non-state actors.

Displacement caused by organised crime also merits some further attention on an international level, particularly at its intersection with other displacement drivers. Displacement and forced migration caused by criminal violence and persecution is an emerging issue in several regions around the world, especially as organised crime continues to expand into new territories and economic activities – including natural-resource exploitation – and as growing links develop between organised crime groups and conflict actors or terrorist groups in some regions. Nonetheless, this is a significantly under-researched topic on a global level, despite its increasing salience and the importance of establishing it on the international agenda.

Notes

1. The 'Remain in Mexico' policy continued during the Biden administration, officially ending in 2022. For details, see American Immigration Council, 2024, 'The "Migrant Protection Protocols": An Explanation of the Remain in Mexico Program —Fact Sheet', https://www.americanimmigrationcouncil.org/fact-sheet/migrant-protection-protocols/

2. See, US Customs and Border Protection, 'Title 42', https://www.cbp.gov/document/foia-record/title-42

3. Interview with investigative journalist, Mexico City, June 2024.

4. See, US Department of State, 20 February 2025, 'Designation of International Cartels: Fact Sheet', https://www.state.gov/designation-of-international-cartels

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